

[illegible]

## Table of Contents

<b>SECTION A</b>	<b>1</b>
A.1 SF 1449 SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS	1
<b>SECTION B - CONTINUATION OF SF 1449 BLOCKS</b>	<b>4</b>
B.1 CONTRACT ADMINISTRATION DATA	4
B.2 SPECIAL CONTRACT REQUIREMENTS	4
B.3 LIMITATIONS ON SUBCONTRACTING-- MONITORING AND COMPLIANCE (JUN 2011)	7
B.4 SUBCONTRACTING COMMITMENTS--MONITORING AND COMPLIANCE (JUN 2011)	7
B.5 PERFORMANCE WORK STATEMENT (PWS)	7
B.6 Price/Cost Schedule	8
Item Information	17
B.7 Delivery Schedule	17
<b>SECTION C - CONTRACT CLAUSES</b>	<b>18</b>
C.1 52.212-4 CONTRACT TERMS AND CONDITIONS—COMMERCIAL ITEMS (SEP 2013)	18
C.2 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)	23
C.3 52.247-34 F.O.B. DESTINATION (NOV 1991)	24
C.4 52.246-4 INSPECTION OF SERVICES--FIXED-PRICE (AUG 1996)	25
C.5 52.216-18 ORDERING (OCT 1995)	25
C.6 52.216-19 ORDER LIMITATIONS (OCT 1995)	26
C.7 52.216-22 INDEFINITE QUANTITY (OCT 1995)	26
C.8 52.217-8 OPTION TO EXTEND SERVICES (NOV 1999)	27
C.9 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)	27
C.10 52.228-5 INSURANCE—WORK ON A GOVERNMENT INSTALLATION (JAN 1997)	27
C.11 52.219-28 POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION (JUL 2013)	27
C.12 852.232-72 ELECTRONIC SUBMISSION OF PAYMENT REQUESTS (NOV 2012)	29
C.13 VAAR 852.237-7 INDEMNIFICATION AND MEDICAL LIABILITY INSURANCE (JAN 2008)	30
C.14 VAAR 852.237-70 CONTRACTOR RESPONSIBILITIES (APR 1984)	31
C.15 VAAR 852.270-1 REPRESENTATIVES OF CONTRACTING OFFICERS (JAN 2008)	31
C.16 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL ITEMS (JAN 2014)	31
<b>SECTION D - CONTRACT DOCUMENTS, EXHIBITS, OR ATTACHMENTS</b>	<b>37</b>
D.1 QUALITY ASSURANCE SURVEILLANCE PLAN (QASP)	38
D.2 BUSINESS ASSOCIATE AGREEMENT BETWEEN THE DEPARTMENT OF VETERANS AFFAIRS VETERANS HEALTH ADMINISTRATION AND	41
<b>SECTION E - SOLICITATION PROVISIONS</b>	<b>46</b>
E.1 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)	55
E.2 52.209-7 INFORMATION REGARDING RESPONSIBILITY MATTERS (JUL 2013)	55
E.3 VAAR 852.209-70 ORGANIZATIONAL CONFLICTS OF INTEREST (JAN 2008)	56
E.4 52.216-1 TYPE OF CONTRACT (APR 1984)	57
E.5 52.212-2 EVALUATION—COMMERCIAL ITEMS (JAN 1999)	57
E.6 52.222-22 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FEB 1999)	58
E.7 52.252-3 ALTERATIONS IN SOLICITATION (APR 1984)	58

E.8 52.233-2 SERVICE OF PROTEST (SEP 2006) .....	58
E.9 VAAR 852.233-70 PROTEST CONTENT/ALTERNATIVE DISPUTE RESOLUTION (JAN 2008) .....	59
E.10 VAAR 852.233-71 ALTERNATE PROTEST PROCEDURE (JAN 1998) .....	59
E.11 VAAR 852.271-70 NONDISCRIMINATION IN SERVICES PROVIDED TO BENEFICIARIES (JAN 2008) .....	60
E.12 VAAR 852.273-70 LATE OFFERS (JAN 2003).....	60
E.13 52.212-3 OFFEROR REPRESENTATIONS AND CERTIFICATIONS—COMMERCIAL ITEMS (NOV 2013) .....	60
<b>E-14 PROPOSAL PREPARATION.....</b>	<b>74</b>

**SECTION B - CONTINUATION OF SF 1449 BLOCKS****B.1 CONTRACT ADMINISTRATION DATA**

(continuation from Standard Form 1449, block 18A.)

1. Contract Administration: All contract administration matters will be handled by the following individuals:

a. CONTRACTOR:

b. GOVERNMENT: **Contracting Officer (90C), PASCHAL L. DAWSON**  
**Department of Veterans Affairs**  
**VA Medical Center**  
**10 N Greene St**  
**Baltimore MD 21201**

2. CONTRACTOR REMITTANCE ADDRESS: All payments by the Government to the contractor should be mailed to the following address:

3. INVOICES: Invoices shall be submitted in arrears:

- a. Quarterly ☐
- b. Semi-Annually ☐
- c. Other ☒ **MONTHLY**

4. GOVERNMENT INVOICE ADDRESS: All Invoices from the contractor shall be submitted electronically in accordance with VAAR Clause 852.232-72 Electronic Submission of Payment Requests.

**Department of Veterans Affairs**  
**FINANCIAL SERVICE CENTER**  
**POST OFFICE BOX 149972**  
**Austin TX 78714**

ACKNOWLEDGMENT OF AMENDMENTS: The offeror acknowledges receipt of amendments to the Solicitation numbered and dated as follows:

AMENDMENT NO	DATE

## B.2 SPECIAL CONTRACT REQUIREMENTS

Under the authority of Public Law 104-262 and 38 USC 8153, the contractor agrees to provide Health Care Resources in accordance with the terms and conditions stated herein, to furnish to and at the Department of Veterans Affairs Medical Center, VA MARYLAND MEDICAL CENTER (VAMHCS), the services and prices specified in the Section entitled Schedule of Supplies/Services of this contract.

### 1. SERVICES:

a. The services specified in the Sections entitled Schedule of Supplies/Services and Special Contract Requirements may be changed by written modification to this contract.

b. Other necessary personnel for the operation of the services contracted for at the VA will be provided by the VA at levels mutually agreed upon which are compatible with the safety of the patient and personnel and with quality medical care programming.

c. The services to be performed by the contractor will be performed in accordance with VA policies and procedures and the regulations of the medical staff by laws of the VA facility.

### 2. TERM OF CONTRACT:

This contract is effective one year from date of award plus one (1) one-year option that may be exercised by the VA. The contract is subject to the availability of funds. The contractor shall perform no services after September 30 of any year until the Contracting Officer authorizes such services in writing.

### 3. QUALIFICATIONS:

Personnel assigned by the Contractor to perform the services covered by this contract shall be licensed in a State, Territory, or Commonwealth of the United States or the District of Columbia. All licenses held by the personnel working on this contract shall be full and unrestricted licenses. The qualifications of such personnel shall also be subject to review by the VA Chief of Staff and approval by the VA Facility Director. Each person assigned to work under this contract shall be licensed by STATE OF MARYLAND.

### 4. WORK HOURS:

a. The services covered by this contract shall be furnished by the contractor as defined herein. The contractor will not be required, except in case of emergency, to furnish such services during off-duty hours as described below.

b. The following terms have the following meanings:

(1) Work hours: Monday through Friday, 8:00 a.m. - 4:30 p.m.

(2) National Holidays: The 10 holidays observed by the Federal Government are:

New Year's Day  
 Martin Luther King's Birthday  
 Presidents Day  
 Memorial Day  
 Independence Day  
 Labor Day  
 Columbus Day  
 Veterans Day

Thanksgiving  
Christmas AND  
any other day specifically declared by the President of the United States to be a national holiday.

(3) Off-Duty hours: Friday through Monday, 4:30 p.m. - 8:00 a.m.

## **5. PERSONNEL POLICY:**

The contractor shall be responsible for protecting the personnel furnishing services under this contract. To carry out this responsibility, the contractor shall provide the following for these personnel:

- general liability
- workers compensation
- professional liability insurance
- health examinations
- income tax withholding, and
- social security payments.

The parties agree that the contractor, its employees, agents and subcontractors shall not be considered VA employees for any purpose.

## **6. RECORD KEEPING:**

The VA Medical Center, VA MARYLAND MEDICAL CENTER (VAMHCS) shall establish and maintain a record keeping system that will record the hours worked by the contractor employee(s). Contractor's employee(s) shall report to Administrative Officer, or designee upon arrival at the VA MARYLAND MEDICAL CENTER (VAMHCS).

## **7. CONTRACT PERFORMANCE MONITORING:**

Monitoring of contractors time shall be demonstrated through sign-in/ sign-out sheets. The contractor shall be required to sign an attendance log upon reporting to work and departing from work. CONTRACTING OFFICER REPRESENTATIVE shall be the VA official responsible for verifying contract compliance. After contract award, any incidents of contractor noncompliance as evidenced by the monitoring procedures shall be forwarded immediately to the Contracting Officer.

## **8. KEY PERSONNEL AND TEMPORARY EMERGENCY SUBSTITUTIONS:**

The Contractor shall assign to this contract the following key personnel:

a. During the first ninety (90) days of performance, the Contractor shall make NO substitutions of key personnel unless the substitution is necessitated by illness, death, or termination of employment. The Contractor shall notify the Contracting Officer, in writing, within 15 calendar days after the occurrence of any of these events and provide the information required by paragraph (c) below. After the initial 90-day period of the contract, the Contractor shall submit the information required by paragraph (c) to the Contracting Officer at least 15 days prior to making any permanent substitutions.

b. The Contractor shall provide a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes, and any additional information requested by the Contracting Officer. Proposed substitutes shall have comparable qualifications to those of the persons being replaced. The Contracting Officer will notify the Contractor within 15 calendar days after receipt of all required information of the decision on the proposed substitutes. The contract will be modified to reflect any approved changes of key personnel.

c. For temporary substitutions where the key person will not be reporting to work for three (3) consecutive work days or more, the Contractor will provide a qualified replacement for the key person. This substitute shall have comparable qualifications to the key person. Any period exceeding two weeks will require the procedure as stated above.

### **B.3 LIMITATIONS ON SUBCONTRACTING--MONITORING AND COMPLIANCE (JUN 2011)**

This solicitation includes FAR 52.219-4 Notice of Price Evaluation Preference for Hub-Zone Small Business Concerns. Accordingly, any contract resulting from this solicitation will include this clause. The contractor is advised in performing contract administration functions, the CO may use the services of a support contractor(s) retained by VA to assist in assessing the contractor's compliance with the limitations on subcontracting or percentage of work performance requirements specified in the clause. To that end, the support contractor(s) may require access to contractor's offices where the contractor's business records or other proprietary data are retained and to review such business records regarding the contractor's compliance with this requirement. All support contractors conducting this review on behalf of VA will be required to sign an "Information Protection and Non-Disclosure and Disclosure of Conflicts of Interest Agreement" to ensure the contractor's business records or other proprietary data reviewed or obtained in the course of assisting the CO in assessing the contractor for compliance are protected to ensure information or data is not improperly disclosed or other impropriety occurs. Furthermore, if VA determines any services the support contractor(s) will perform in assessing compliance are advisory and assistance services as defined in FAR 2.101, Definitions, the support contractor(s) must also enter into an agreement with the contractor to protect proprietary information as required by FAR 9.505-4, obtaining access to proprietary information, paragraph (b). The contractor is required to cooperate fully and make available any records as may be required to enable the CO to assess the contractor's compliance with the limitations on subcontracting or percentage of work performance requirement.

(End of Clause)

### **B.4 SUBCONTRACTING COMMITMENTS--MONITORING AND COMPLIANCE (JUN 2011)**

This solicitation includes VAAR 852.215-70, Service-Disabled Veteran-Owned and Veteran-Owned Small Business Evaluation Factors, and VAAR 852.215-71, Evaluation Factor Commitments. Accordingly, any contract resulting from this solicitation will include these clauses. The contractor is advised in performing contract administration functions, the CO may use the services of a support contractor(s) to assist in assessing contractor compliance with the subcontracting commitments incorporated into the contract. To that end, the support contractor(s) may require access to the contractor's business records or other proprietary data to review such business records regarding contract compliance with this requirement. All support contractors conducting this review on behalf of VA will be required to sign an "Information Protection and Non-Disclosure and Disclosure of Conflicts of Interest Agreement" to ensure the contractor's business records or other proprietary data reviewed or obtained in the course of assisting the CO in assessing the contractor for compliance are protected to ensure information or data is not improperly disclosed or other impropriety occurs. Furthermore, if VA determines any services the support contractor(s) will perform in assessing compliance are advisory and assistance services as defined in FAR 2.101, Definitions, the support contractor(s) must also enter into an agreement with the contractor to protect proprietary information as required by FAR 9.505-4, obtaining access to proprietary information, paragraph (b). The contractor is required to cooperate fully and make available any records as may be required to enable the CO to assess the contractor compliance with the subcontracting commitments.

(End of Clause)

## **B.5 PERFORMANCE WORK STATEMENT (PWS)**

### **PWS 1.0 SCOPE OF WORK**

**PWS 1.1** The contractor shall provide all respiratory therapy, procedures and treatments within the three Intensive Care Units (CICU, MICU, SICU) , Emergency department, 3A, 3B, 5B 6A at the Baltimore facility to eligible beneficiaries of the Veterans Affairs Maryland Health Care System (VAMHCS), 10 North Greene Street, Baltimore, MD 21201 and Building 19A in Perry Point.. The Contract Health Care Provider shall cover the range of services in accordance with the terms and conditions contained herein.

### **PWS 2.0 QUALIFICATIONS**

**PWS 2.1** Personnel assigned by the Contractor to perform the services covered by this contract shall be licensed in the State of Maryland to perform respiratory therapy services and maintain a current BLS card. The qualifications of said personnel shall be submitted for review and approval prior to commencing work; this will include, but not be limited to: verification of competency assessments and primary license verification. Only personnel approved by the VA shall be allowed to perform under this contract. The qualifications of such personnel shall also be subject to review by VAMHCS Chief of Staff and approval by the VAMHCS Medical Center Director.

**PWS 2.2** Contractor staff performing respiratory therapy procedures within the guidelines of this contract will maintain licensure and/or certification as required by a Joint Commission. Copies of all clinical personnel annual competencies documentation and licensure shall be provided to the Contracting Officers Representative (COR) and/or Contracting Officer, if requested.

**PWS 2.3** The Contractor shall, without additional expense to the Government, be responsible for obtaining necessary licenses and permits for complying with any applicable federal, state, and local laws, codes and regulations in connection to the performance of the type of service required by this contract.

### **PWS 3.0 CREDENTIALING**

**PWS 3.1** Contract Respiratory therapist assigned by the Contractor to perform the services covered by this contract shall be fully credentialed as an independent provider, through the VAMHCS Medical Staff Office (VAMHCS MSO), to perform services. Contractor and/or contractor personnel shall provide all documentation and materials as required by the MSO and/or Contracting Officer's Representative (COR)/Contracting Officer (CO) to meet Federal and Joint Commission qualifications.

**PWS 3.2** Other documentation includes completed training in cardiopulmonary resuscitation, infection control and universal precautions. All providers must provide evidence of current Basic Life Support (BLS) certification with renewal as needed to maintain certification. The credentials required must be sufficient to allow for performance of all requirements contained in this performance work statement (PWS).

**PWS 3.3** Contractor's employees providing these services will complete a unit based orientation provided by a VAMHCS employee.

**PWS 3.4 TORT CLAIMS:** Contractor employees are not covered by the Federal Tort Claims Act. When a contractor employee has been identified as a provider in a tort claim, the contractor employee is responsible for notifying the contractor's legal counsel and/or insurance carrier. Any settlement or judgment arising from a contractor employee's actions or non-action is the responsibility of the contractor and/or insurance carrier.

### **PWS 4.0 DENIAL/TERMINATION OF INDIVIDUAL CONTRACT SERVICES**

**PWS 4.1** The Contractor shall ensure that all contract Health Care Providers are aware of the VA's policy of zero tolerance for behavior that constitutes sexual, ethnic, or religious harassment or discrimination. The use of abusive or foul



language is prohibited. Veteran and employee complaints of harassment or discrimination will be investigated promptly and thoroughly.

## **PWS 5.0 WORK HOURS**

**PWS 5.1** Contract respiratory therapy services shall be furnished as defined herein. The contractor will be required to furnish services during work hours or as requested in the event of an emergency.

**PWS 5.2** The following terms have the following meanings:

**PWS 5.2.1 Work Hours:** Sunday through Saturday 24 hours.

A. Days: 7:00 a.m. to 3:30 p.m. and 7:00 a.m. to 7:30 p.m.

B. Evenings: 3:00 p.m. to 11:30 p.m.

C. Nights: 11:00 p.m. to 7:30 a.m. and 7:00 p.m. to 7:30 a.m.

D. Weekdays: 7:00 a.m. Monday through 3:30 p.m. Friday

E. Weekend: Tour of duty beginning 3:00 p.m. Friday evening through tour of duty ending 7:30 a.m. Monday morning.

**PWS 5.2.2 National Holidays:** The ten holidays observed by the Federal Government are: New Year's Day, Presidents Day, Martin Luther King's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving, Christmas, and any day specifically declared by the President of the United States to be a national holiday.

## **PWS 6.0 GENERAL DUTIES AND RESPONSIBILITIES**

**PWS 6.1** The Respiratory Therapist will accept their work assignment from the staff at the facility. Review of the patient's orders and of the other information in the patient's chart, performance of physical examination of the patient and review of x-rays and laboratory data to clarify physician orders, to understand the patient's condition and to help set therapeutic goals. Oxygen administration and ventilator operation (including oxygen and ventilator setup, periodic checks, and equipment troubleshooting) to conform to physician orders, treatment goals and Respiratory Therapy Section policies and Standard Operating Procedures. Maintenance of patient records according to VA Medical Center Respiratory Therapy Section policy. Cleaning and disinfecting respiratory therapy equipment whenever policy and acceptable respiratory therapy practice dictates. Administration of therapeutic aerosols: Uses mouthpiece or mask apparatus for those patients not receiving mechanical ventilation and Metered Dose Inhalers for those patients that are receiving mechanical ventilation. Must recognize the contraindications to drug administration and must recognize adverse reactions and take appropriate emergency action including the summoning of appropriate medical assistance. Ability to evaluate patients to determine the appropriate modality to employ for Bronchial Hygiene, Induction of diagnostic sputum specimens, Measurement of weaning parameters for ventilator patients, Bedside spirometry, Assistance with cardiopulmonary resuscitation by using a manual resuscitator bag and mask and helping to maintain the patient's airway. Respiratory care of patients on ventilators- including maintenance of endotracheal tubes in clean condition and in the correct position and, when indicated, performance of endotracheal suctioning. The contractor must be proficient in the operation of ventilators. When necessary, the Respiratory Therapist must recognize an emergency situation and, when indicated, must initiate cardiopulmonary resuscitation and summon emergency assistance. The Respiratory Therapist will respond to all announced medical emergencies (CODE BLUE, RAPID RESPONSE...).

**PWS 6.2** VA patients will receive the same priority for services that their condition warrants as any other patient treated by the Contractor.

**PWS 6.3** Treatments and Documentation of Care: Documentation of the delivery of therapeutic modalities is to be accomplished as soon as possible after the therapy has been administered. At no time should the practitioner wait until the end of the shift to do all of his/her charting. Refer to SOP MED111-029 (**Please see Section D.3, Page 46**).

**PWS 6.4** The contractor shall document patient's vital signs, condition respiratory therapy treatment and patient response to therapy after every treatment In CPRS and BCMA (in ICIP in the critical care units).

## **PWS 7.0 QUALITY ASSURANCE**

**PWS 7.1** Contractor shall meet Veterans Health Administration (VHA) identified performance measures and practices in accordance with VHA clinical practice guidelines and other quality indicators as agreed upon by the Contractor and Contracting Officers Representative. Monitoring of this contract shall be reported through monthly reports and /or schedule determined by the COR, but no less than biannually.

## **PWS 8.0 TECHNICAL DIRECTION/PERFORMANCE EVALUATION**

**PWS 8.1** The Government reserves the right to evaluate the quality of performance and administrative service provided by the contract personnel.

**PWS 8.2** The performance of contractual services will be monitored for quality purposes by the chief or assistant chief of respiratory therapy of the VAMHCS. Any problems or patient complications during the treatment will be documented in a progress note and reported to the COR.

## **PWS 9.0 REIMBURSEMENT FOR HEALTH INSURANCE**

**PWS 9.1** The Department of Veterans Affairs is allowed, according to Public Law 99-272 and 101-508, to seek reimbursement for health insurance carriers for the cost of medical care and treatment provided to veterans for their non-service connected conditions. The Contractor or Contractor's employee(s) are not allowed to bill health insurance carriers for the service(s) provided to VAMHCS patients while working under contract with the Department of Veterans Affairs.

**PWS 9.2** Neither the Contractor nor the Contractor's employees are authorized to receive reimbursement from any health insurance carrier for care provided to a VAMHCS patient while working under contract with the VAMHCS. Any reimbursements of this nature shall be returned to the Medical Center Cost Fund (MCCF) section for processing.

## **PWS 10.0 COMPUTERIZED PATIENT RECORD SYSTEM (CPRS)**

**PWS 10.1** If training on this electronic system is required, the Contractor may contact the COR under this contract to schedule individual(s) for training.

## **PWS 11.0 CONFLICT OF INTEREST, ETHICS, AND STAFFING**

**PWS 11.1** Contract providers shall not accept or solicit gratuities from VA patients, employees, or commercial companies while on-station. Contract providers shall also not engage in any type of business enterprise, solicitation, or fund-raising, including for charity, etc. while on-station. Any potential impropriety or conflict of interest should be discussed with the COR or the provider's supervisor. If contract provider fails to request a ruling, or proceeds after receiving a ruling not to proceed, and the impropriety or conflict of interest is deemed sufficiently significant, the provider may be removed from service under this Contract and may face legal action.

**PWS 11.2** Federal laws and regulations prohibit VA employees who are also employees of the Contractor from receiving any remuneration from the Contractor or who have financial interest in this contract from participating in any way in contracting or procurement activities, including pre-negotiation discussions, negotiation, award decision, monitoring contractor performance, and/or authorization of payments for contracted services, since they may improperly influence the contracting process in favor of the Contractor (Office of General Counsel Letters dated April 1, 1991 and October 17, 1991).

## **PWS 12.0 CHANGES IN PERSONNEL**

**PWS 12.1** During the first ninety (90) days of performance, the Contractor shall make NO substitutions of key personnel unless the substitution is necessitated by illness, death, or termination of employment. The Contractor shall notify the Contracting Officer, in writing, within 15 days after the occurrence of any of these events with an explanation of the circumstances necessitating the proposed substitutions, provide resumes or documents to support a suitability

determination for the proposed substitutes, and any additional information requested by the CO. Proposed substitutes shall have comparable qualifications to those of the persons being replaced. The CO will notify the Contractor within 15 calendar days after receipt of all required information of the proposed substitutes. The contract will be modified to reflect any approved changes of key personnel not previously listed.

### **PWS 13.0 RECONCILIATION**

**PWS 13.1** The contractor shall bill for services rendered according to the number of dialysis procedures performed at the VAMHCS for each authorized patient.

**PWS 13.2** The Contractor shall submit invoices monthly in arrears. Invoices shall include, at a minimum, the information requested in FAR Clause 52.212-4 Contract Terms and Conditions-Commercial Items, paragraph (g).

**PWS 13.3** The Financial Services Center (FSC) has a toll free number for the Customer Support Help Desk (1-877-353-9791). Online registration to the FSC for payment status and checking and inquiry is at <http://www.fsc.va.gov/vis/login.html>. Contractor shall be paid by electronic funds transfer.

**PWS 13.4** Invoices submitted for payment shall be reviewed for accuracy and shall be subject to approval by the Government prior to remittance of payment. Any discrepancies found shall be resolved. A corrected copy of the invoice must be submitted by the Contractor, as instructed by the Government. Invoices shall include all charges for care provided and payment made shall constitute total cost for services rendered. No additional charges are to be billed to the patient, the patient's family or patient's insurance by the Contractor, the facility or by any other party furnishing services for such care, unless otherwise authorized by the Government.

**PWS 13.5** Upon receipt of this monthly statement, the COR, or designee, will reconcile the number of treatments per patient with the treatment sheet records and certify the statement for payment by Fiscal Service using funds obligated. The contractor will receive payment for the number and type of procedures actually performed.

**PWS 13.7** Only a duly appointed Contracting Officer is authorized to change the specification, terms, and conditions under this contract.

### **PWS 14.0 LIABILITY AND INSURANCE COVERAGE**

**PWS 14.1** The Contractor shall assume full responsibility for the protection of its personnel furnishing services under this contract, such as providing workers' compensation, professional liability insurance, health examination, social security payments, and occupational disease statutes. If occupational diseases are not compensable under those statutes, they shall be covered under the employer's liability section of the insurance policy, except when contract operation are so commingled with a Contractors' commercial operations that it would not be practical to require this coverage. Employers' liability coverage of at least \$1,000,000.00 shall be required, except in states with exclusive or monopolistic funds that do not permit worker's compensations to be written by private carriers.

**PWS 14.2** The Contract shall provide bodily injury liability insurance coverage written on the comprehensive form of policy of at least \$1,000,000.00 per occurrence.

### **PWS 15.0 PERSONNEL POLICY**

**PWS 15.1** The parties agree that the Contractor, its employees, agents and subcontractors shall not be considered VA employees for any purpose.

### **PWS 16.0 CONTINGENCY PLAN (ALTERNATE SOURCE PLAN)**

### **PWS 17.0 ACCEPTANCE OF CONTRACTOR PERSONNEL**

**PWS 17.1** The Government reserves the right to examine, approve and/or disapprove individuals based on the information provided in credentials and/or resumes, background investigation, fingerprint results.

## **PWS 18.0 RECORD KEEPING SYSTEM, INVOICES AND PAYMENT**

**PWS 18.1** Contractor shall be compensated for services actually performed and in compliance with this agreement. Contractor will forward a monthly invoice to the VA Financial Services Center, P.O. Box 149971, Austin, Texas 78714-8971 that will include patient names, dates of treatments, and CPT codes.

**PWS 18.2** COR will confirm authorization and completion of each treatment. Once verified, COR will certify invoice for payment and forward to Fiscal Service. Invoices should be certified and payment processed within 30 days of receipt of the invoice.

**PWS 18.3** Payment from the VA shall be considered payment in full. Contractor shall not pursue any further collection activities from any other source. It shall be considered fraudulent for the contractor(s) to bill other third party insurance sources (including Medicare) for services rendered to eligible veterans under this contract.

## **PWS 19.0 MEDICAL RECORDS**

**PWS 19.1** All records remain property of VA.

**PWS 19.1.1** Clinical or other medical records of VA beneficiaries treated by the Contractor shall be completed at the time the patient is seen. VA Computerized Patient Record System (CPRS) and all other computerized methods of record input, update, retrieval, and storage will be made available to the same extent as any other provider working at VA.

**PWS 19.1.2** The Contractor, and contract Health Care Providers, shall prepare all documentation to meet or exceed established standards of the U.S. Government to include, but not limited to, timeliness, legibility, accuracy, content, and signature. Only Joint Commission approved abbreviations shall be used in documentation of care in the patient's health care record.

**PWS 19.1.3** The VA shall provide the Contractor and their authorized representatives copies of medical records (upon request) regarding the services provided under this contract as may be necessary for defense against an incident or potential claim or suit or investigation, or as otherwise permitted by law. The provisions of this section shall survive the termination of the term of this contract.

## **PWS 20.0 RELEASE OF MEDICAL INFORMATION**

**PWS 20.1** The Contractor shall only release medical information obtained during the course of this contract to other VA staff members involved in the care and/or treatment of that individual patient. Only the VA Release of Information (ROI) section has authority to release patient information to other parties with the consent of the patient.

## **PWS 21.0 PATIENT SENSITIVITY AND COMMUNICATION WITH STAFF**

**PWS 21.1** Contract Health Care Providers shall respect and maintain the basic rights of patients, demonstrating concern for personal dignity and human relationships. Complaints shall be investigated individually.

**PWS 21.2** The Contractor shall ensure that contract staff maintains open and professional communication with members of the VA staff. Complaints regarding communication with members of the VA staff that are validated by the VA COS, COM, or Director's Office shall be reported to the COR in writing, and referred by the COR to the Contractor for action. Failure by the Contractor to correct validated complaints may be considered failure to perform.

## **PWS 22.0 NON-PERSONAL SERVICES CONTRACT**

**PWS 22.1** This is a non-personnel services contract under which the Contractor is an independent contractor whose personnel rendering the services are not subject, either by the Contract's terms or by the manner of its administration, to the supervision and control usually prevailing in relationships between the U.S. Government and its employees. Contractor personnel shall not be considered U.S. Government employees for any purpose and shall not at any time supervise U.S. government employees. The Contractor may provide professional and technical direction to U.S. Government employees for services performed.

## **PWS 23.0 HEALTH REQUIREMENTS**

**PWS 23.1** For each individual contract Health Care Provider, upon request by the COR the Contractor shall provide the COR with all the information necessary to ensure that U.S. Government records are maintained correctly and in compliance with Joint Commission, OSHA, and the Center for Disease Control (CDC) health records requirement.

**PWS 23.2** As a condition of employment, OSHA requires that all personnel who will have occupational exposure to blood, other body fluids, or other potentially infectious materials, shall receive Hepatitis B vaccine, sign a voluntary declination or have documented proof of immunity to Hepatitis B infection. Contract Health Care Providers who signed declinations may later receive the vaccine without penalty.

**PWS 23.3** Contract Health Care Providers shall be free of infectious disease that might reasonably be expected to place other workers, patients, or the public at risk, including active Tuberculosis (TB).

**PWS 23.4** When a Healthcare Provider has been found medically unfit for providing services required under this contract, they shall be required to discontinue work immediately. Contract Healthcare Providers will not return to work until given clearance by the appropriate physician.

**PWS 23.5** The U.S. Government may take nose and throat cultures from contract Healthcare Providers when required by U.S. Government Infection Control Committees (ICC).

**PWS 23.6** The U.S. Government will provide emergency health care for injuries sustained by contract Healthcare Provider while performing work under this Contract.

## **PWS 24.0 DRUG SCREENING**

**PWS 24.1** Contract Health Care Providers are subject to drug testing when there is a reasonable suspicion that they have used or are impaired by drugs while on duty. Conditions leading to a reasonable suspicion of drug use or impairment include, but are not limited to, the following:

**PWS 24.1.1** Observable phenomena, such as direct observation of drug use or possession and/or the physical symptoms of being under the influence of a drug;

**PWS 24.1.2** A pattern of abnormal conduct or erratic behavior;

**PWS 24.1.3** Arrest or conviction for a drug related offense, or the identification of a contract Healthcare Provider as the focus of a criminal investigation into illegal drug possession, use or trafficking;

**PWS 24.1.4** Information provided either by reliable and credible sources or independently corroborated;

**PWS 24.1.5** Newly discovered evidence that the contract Healthcare Provider has tampered with a previous drug test.

## **PWS 25.0 SMOKING POLICY**

**PWS 25.1** The VA Maryland Healthcare System is a smoke free institution. Smoking is permitted only within designated areas of the VAMHCS.

**PWS 26.0 CONTRACTING OFFICER REPRESENTATIVE**

**PWS 26.1** In all areas of this contract where a VAMHCS individual, designee or position is identified it shall be understood that responsibility or authority shall be vested with the VAMHCS individual, designee or position as identified. The COR will identify the individual or individuals authorized to represent the COR in certain areas of contract administration as identified in the Contracting Officer delegation letter.

**PWS 27.0 CONTRACTOR LIAISON**

**PWS 27.1** The contractor shall designate one (1) employee who shall be responsible for the performance of the work under this contract. The liaison shall have full authority to act for the Contractor on all matters relating to the daily operation of this contract. The liaison may be a contract health care provider performing under this contract. An alternate may be designated, but the Contractor shall identify, in writing, those times when the alternate shall act as the liaison.

---

 Contractor Liaison:

---

 Phone:

---

 email:

---

 VA Liaison:

---

 Phone:

---

 email:
**PWS 28.0 IDENTIFICATION BADGE**

**PWS 28.1** An identification (ID) badge will be issued by the VA to contract nurses/technologists rendering services at the VA. The appropriate ID badge shall be worn at all times while on Government premises, clearly displayed on the outermost garment (i.e. coat, jacket sweater, shirt, blouse, lab coat, and etc.)

**PWS 29.0 PERSONAL HYGIENE AND CLOTHING**

**PWS 29.1** In performance of this Contract, contract health care providers shall be neat, clean, well-groomed, and otherwise exercise good personal hygiene. Appropriate and professional attire shall be worn at all times.

**PWS 30.0 CONTRACTOR PERSONNEL SECURITY REQUIREMENTS**

**PWS 30.1** The Office of Security and Law Enforcement provides Department-wide policy on the assignment of appropriate position sensitivity designations associated with the Department of Veterans Affairs positions involving national security and public trust responsibilities, and on the level of background investigations required for applicants for, and incumbents of, those positions. In addition to VA employees, the policy and investigative requirements are applicable to Contractor personnel who require access to VA computer systems designated as sensitive.

**PWS 30.2** Contractor and subcontractor personnel who require access to VA computer systems shall be subject to all necessary background investigations and receive a favorable adjudication from the VA Office of Security and Law Enforcement to ensure compliance with such policy. If such investigation has not been completed prior to contract commencement, the Contractor shall be responsible for the actions of those individuals performing under this contract.

**PWS 30.3** The level of sensitivity associated with any investigation shall be determined by the Government on the basis of the type of access required. The position risk designation will determine the depth of the investigation and the cost thereof.

OCCUPATION TITLE	RISK POINTS	RISK	INVESTIGATION
Certified respiratory therapist	11	Low	NACI
Registered respiratory therapist	11	Low	NACI

*(IAW VHA Handbook 0710.01 Appendix A – Position Sensitivity and Investigation Guide)*

**PWS 30.4** The Contractor shall be required to furnish all applicable employee information required to conduct investigations, such as, but not limited to, the name, address, and social security number of Contractor personnel. The VA shall provide all the necessary instructions and guidance for submission of the documents required for Contractor personnel who will not be required to access VA computer systems nor gain access to sensitive materials.

**PWS 30.5** Should the contract require Contractor personnel to maintain U.S. citizenship, the Contractor shall be responsible for compliance. Regardless of U.S. citizenship requirements, the Contractor personnel are required to read, write, speak, and understand the English language, unless otherwise specified in this contract or agreed to by the Government.

### **PWS 31.0 INFORMATION SECURITY**

**PWS 31.1** The contractor, and Contract Health Care Providers, shall be responsible for maintaining privacy of patient information in performance of this Contract. Patient information is protected under the Privacy Act.

**PWS 31.2** The contractor, their personnel, and their subcontractors shall be subject to the Federal laws, regulations, standards, and VA Directives and Handbooks as VA and VA personnel regarding information and information system security as delineated in this contract.

**PWS 31.3** In order to perform the services required in this Performance Work Statement (PWS), the contractor will not be required to connect contractor-owned IT devices (e.g., laptops) to a VA internal trusted network. The C&A requirements do not apply; thus a Security Accreditation Package is not required. The contractor shall request logical (technical) or physical access to VA information and VA information systems for their employees only to the extent necessary to perform the services specified in the contract, agreement, or task order.

**PWS 31.4** The contractor must notify the Contracting Officer immediately when an employee working on a VA system or with access to VA information is reassigned or leaves the contractor employ. The Contracting Officer must also be notified immediately by the contractor prior to an unfriendly termination.

### **PWS 31.5 Information Custody**

**PWS 31.5.1** Information made available to the contractor by VA for the performance or administration of this contract or information developed by the contractor in performance or administration of the contract shall be used only for those purposes and shall not be used in any other way without the prior written agreement of VA. This clause expressly limits the contractor's rights to use data as described in Rights in Data - General, FAR 52.227-14(d)(1).

**PWS 31.5.2** The contractor shall not make copies of VA information except as authorized and necessary to perform the terms of the agreement. Once the copies are no longer needed, the copies must be appropriately destroyed (placed inside a document shred box).

**PWS 31.5.3** If VA determines the contractor has violated any of the information confidentiality, privacy, and security provisions of the contract, it shall be sufficient grounds for VA to withhold payment to the contractor or third party or terminate the contract for default or terminate for cause under Federal Acquisition Regulation (FAR) part 12.

**PWS 31.5.4** The contractor must store, transport, or transmit VA sensitive information in an encrypted form, using VA-approved encryption tools that are, at a minimum, FIPS 140-2 validated.

**PWS 31.5.5** Except for uses and disclosures of VA information authorized by this contract for performance of the contract, the contractor may use and disclose VA information only in two other situations: (i) in response to a qualifying order of a court of competent jurisdiction, or (ii) with VA's prior written approval. The contractor must refer all requests for, demands for production of, or inquiries about, VA information and information systems to the VA contracting officer for response.

**PWS 31.5.6** Notwithstanding the provision above, the contractor shall not release VA records protected by Title 38 U.S.C. 5705, confidentiality of medical quality assurance records and/or Title 38 U.S.C. 7332, confidentiality of certain health records pertaining to drug addiction, sickle cell anemia, alcoholism or alcohol abuse, or infection with human immunodeficiency virus. If the contractor is in receipt of a court order or other requests for the above mentioned information, that contractor shall immediately refer such court orders or other requests to the VA contracting officer for response.

### **PWS 31.6 Security Incident Investigation**

**PWS 31.6.1** The term "security incident" means an event that has, or could have, resulted in unauthorized access to, loss or damage to VA assets, or sensitive information, or an action that breaches VA security procedures. The contractor shall immediately notify the COR and simultaneously, the designated ISO and Privacy Officer for the contract of any known or suspected security/privacy incidents, or any unauthorized disclosure of sensitive information, including that contained in system(s) to which the contractor/subcontractor has access.

**PWS 31.6.2** To the extent known by the contractor, the contractor's notice to VA shall identify the information involved, the circumstances surrounding the incident (including to whom, how, when, and where the VA information or assets were placed at risk or compromised), and any other information that the contractor considers relevant.

### **PWS 31.7 Training**

**PWS 31.7.1** Contractor employees shall complete the following before being granted access to VA information and VA information systems:

**PWS 31.7.1.a** Sign and acknowledge (electronically) understanding of and responsibilities for compliance with the *Contractor Rules of Behavior* relating to access to VA information and information systems;

**PWS 31.7.1.b** Successfully complete the *VA Cyber Security Awareness and Rules of Behavior* training and annually complete required security training;

**PWS 31.7.1.c** Successfully complete the appropriate VA privacy training and annually complete required privacy training; and

**PWS 31.7.1.d** Successfully complete any additional cyber security or privacy training, as required for VA personnel with equivalent information system access *[to be defined by the VA program official and provided to the contracting officer for inclusion in the solicitation document – e.g., any role-based information security training required in accordance with NIST Special Publication 800-16, Information Technology Security Training Requirements.]*

**PWS 31.7.2** The contractor shall provide to the contracting officer and/or the COR a copy of the training certificates and certification of signing the Contractor Rules of Behavior for each applicable employee within one week of the initiation of the contract and annually thereafter, as required.

**PWS 31.7.3** Failure to complete the mandatory annual training and electronically sign the Rules of Behavior annually, within the timeframe required, is grounds for suspension or termination of all physical or electronic access privileges and removal from work on the contract until such time as the training and documents are complete.



**PWS 32.0 APPLICABLE PUBLICATIONS**

**PWS 32.1** The Contractor shall adhere to all applicable VA publications (e.g., policies, Standard Operating Procedures). The publications are maintained by the Government and are available through the COR. At any time, these publications are subject to change, made in the form of supplements or amendments issued at any organizational level and may affect contract performance.

**PWS 33.0 OTHER REFERENCES**

**PWS 33.1** Joint Commission Standards for: Specifically, standard LD.04.03.09 entitled “Care, treatment and services provided through contractual agreement are provided safely and effectively. “The only contractual agreements subject to the requirements in standard LD.04.03.09 are those for provision of care, treatment, and services provided to the hospitals patients. This standard does not apply to contracted services that are not directly related to patient care.

**PWS 33.1.1 Ambulatory Care (Current Year); N/A**

**PWS 33.1.2** Specifically, standard LD.04.03.09 entitled “Care, treatment and services provided through contractual agreement are provided safely and effectively. “The only contractual agreements subject to the requirements in standard LD.04.03.09 are those for provision of care, treatment, and services provided to the hospitals patients. This standard does not apply to contracted services that are not directly related to patient care.

**PWS 31.1.2a** Hospital (Current Year). Compliance requirement - The contractor agrees to establish/remain in compliance with any and all Joint Commission standards that are applicable to the services provided to the VA Maryland Health Care System. The contractor also agrees to abide by all requirements from any regulatory and/or other accrediting body that evaluate the organization. Further, the contractor agrees to provide information concerning service or personnel on request in an expedient manner.

(End of Provision)

**B.6 Price/Cost Schedule****Item Information**

ITEM NUMBER	DESCRIPTION OF SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
1	Respiratory therapy agency services	2,573.00	HR		
GRAND TOTAL					

**B.7 Delivery Schedule**

ITEM NUMBER	QUANTITY	DELIVERY DATE
1	2,573.00	

## SECTION C - CONTRACT CLAUSES

### C.1 52.212-4 CONTRACT TERMS AND CONDITIONS—COMMERCIAL ITEMS (SEP 2013)

(a) *Inspection/Acceptance.* The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or re-performance of nonconforming services at no increase in contract price. If repair/replacement or re-performance will not correct the defects or is not possible, the Government may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The Government must exercise its post-acceptance rights—

- (1) Within a reasonable time after the defect was discovered or should have been discovered; and
- (2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(b) *Assignment.* The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727). However, when a third party makes payment (e.g., use of the Government-wide commercial purchase card), the Contractor may not assign its rights to receive payment under this contract.

(c) *Changes.* Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

(d) *Disputes.* This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) *Definitions.* The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.

(f) *Excusable delays.* The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) *Invoice.*

(1) The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include—

- (i) Name and address of the Contractor;
- (ii) Invoice date and number;
- (iii) Contract number, contract line item number and, if applicable, the order number;
- (iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;

(v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;

(vi) Terms of any discount for prompt payment offered;

(vii) Name and address of official to whom payment is to be sent;

(viii) Name, title, and phone number of person to notify in event of defective invoice; and

(ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(x) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer—System for Award Management, or 52.232-34, Payment by Electronic Funds Transfer—Other Than System for Award Management), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(2) Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR part 1315.

(h) *Patent indemnity.* The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

(i) Payment.—

(1) *Items accepted.* Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract.

(2) *Prompt payment.* The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and prompt payment regulations at 5 CFR part 1315.

(3) *Electronic Funds Transfer (EFT).* If the Government makes payment by EFT, see 52.212-5(b) for the appropriate EFT clause.

(4) *Discount.* In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(5) *Overpayments.* If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall—

(i) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the—

(A) Circumstances of the overpayment (e.g., duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(B) Affected contract number and delivery order number, if applicable;

(C) Affected contract line item or sub-line item, if applicable; and

(D) Contractor point of contact.

(ii) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(6) *Interest.*

(i) All amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in Section 611 of the Contract Disputes Act of 1978 (Public Law 95-563), which is applicable to the period in which the amount becomes due, as provided in (i)(6)(v) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(ii) The Government may issue a demand for payment to the Contractor upon finding a debt is due under the contract.

(iii) *Final decisions.* The Contracting Officer will issue a final decision as required by 33.211 if—

(A) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt within 30 days;

(B) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or

(C) The Contractor requests a deferment of collection on a debt previously demanded by the Contracting Officer (see 32.607-2).

(iv) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.

(v) Amounts shall be due at the earliest of the following dates:

(A) The date fixed under this contract.

(B) The date of the first written demand for payment, including any demand for payment resulting from a default termination.

(vi) The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on—

(A) The date on which the designated office receives payment from the Contractor;

(B) The date of issuance of a Government check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or

(C) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the Contractor.

(vii) The interest charge made under this clause may be reduced under the procedures prescribed in 32.608-2 of the Federal Acquisition Regulation in effect on the date of this contract.

(j) *Risk of loss.* Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the Government upon:

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b. destination.

(k) *Taxes.* The contract price includes all applicable Federal, State, and local taxes and duties.

(l) *Termination for the Government's convenience.* The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

(m) *Termination for cause.* The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) *Title.* Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.

(o) *Warranty.* The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) *Limitation of liability.* Except as otherwise provided by an express warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

(q) *Other compliances.* The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(r) *Compliance with laws unique to Government contracts.* The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. 3701, et seq., Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986; 41 U.S.C. 4712 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. 423 relating to procurement integrity.

(s) *Order of precedence.* Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

(1) The schedule of supplies/services.

(2) The Assignments, Disputes, Payments, Invoice, Other Compliances, Compliance with Laws Unique to Government Contracts, and Unauthorized Obligations paragraphs of this clause;

(3) The clause at 52.212-5.

(4) Addenda to this solicitation or contract, including any license agreements for computer software.

(5) Solicitation provisions if this is a solicitation.

(6) Other paragraphs of this clause.

(7) The Standard Form 1449.

(8) Other documents, exhibits, and attachments

(9) The specification.

(t) *System for Award Management (SAM).*

(1) Unless exempted by an addendum to this contract, the Contractor is responsible during performance and through final payment of any contract for the accuracy and completeness of the data within the SAM database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the SAM database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the SAM database to ensure it is current, accurate and complete. Updating information in the SAM does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(2)(i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in FAR subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the SAM database; (B) comply with the requirements of subpart 42.12; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (t)(2)(i) of this clause, or fails to perform the agreement at paragraph (t)(2)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the SAM information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(3) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the SAM record to reflect an assignee for the purpose of assignment of claims (see Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the SAM database. Information provided to the Contractor's SAM record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(4) Offerors and Contractors may obtain information on registration and annual confirmation requirements via SAM accessed through <https://www.acquisition.gov>.

(u) *Unauthorized Obligations.*

(1) Except as stated in paragraph (u)(2) of this clause, when any supply or service acquired under this contract is subject to any End User License Agreement (EULA), Terms of Service (TOS), or similar legal instrument or agreement, that includes any clause requiring the Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:

(i) Any such clause is unenforceable against the Government.

(ii) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the EULA, TOS, or similar legal instrument or agreement. If the EULA, TOS, or similar legal instrument or agreement is invoked through an "I agree" click box or other comparable mechanism (e.g., "click-wrap" or "browse-wrap" agreements), execution does not bind the Government or any Government authorized end user to such clause.

(iii) Any such clause is deemed to be stricken from the EULA, TOS, or similar legal instrument or agreement.

(2) Paragraph (u)(1) of this clause does not apply to indemnification by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

(End of Clause)

## C.2 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address (es):

<http://www.acquisition.gov/far/index.html>  
<http://www.va.gov/oal/library/vaar/>

(End of Clause)

<u>FAR Number</u>	<u>Title</u>	<u>Date</u>
52.202-1	DEFINITIONS	NOV 2013
52.203-3	GRATUITIES	APR 1984
52.203-5	COVENANT AGAINST CONTINGENT FEES	APR 1984
52.203-7	ANTI-KICKBACK PROCEDURES	OCT 2010
52.203-8	CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY	JAN 1997
52.203-10	PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY	JAN 1997
52.203-12	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS	OCT 2010
52.204-4	PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER	MAY 2011
52.204-9	PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL	JAN 2011
52.209-6	PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED,	AUG 2013

	OR PROPOSED FOR DEBARMENT	
52.215-2	AUDIT AND RECORDS—NEGOTIATION	OCT 2010
52.215-8	ORDER OF PRECEDENCE—UNIFORM CONTRACT FORMAT	OCT 1997
52.215-14	INTEGRITY OF UNIT PRICES	OCT 2010
52.219-4	NOTICE OF PRICE EVALUATION PREFERENCE FOR HUBZONE SMALL BUSINESS CONCERNS	JAN 2011
52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS	JUL 2013
52.222-3	CONVICT LABOR	JUN 2003
52.222-21	PROHIBITION OF SEGREGATED FACILITIES	FEB 1999
52.222-26	EQUAL OPPORTUNITY	MAR 2007
52.222-35	EQUAL OPPORTUNITY FOR VETERANS	SEP 2010
52.222-36	AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES	OCT 2010
52.222-37	EMPLOYMENT REPORTS ON VETERANS	SEP 2010
52.222-50	COMBATING TRAFFICKING IN PERSONS	FEB 2009
52.224-1	PRIVACY ACT NOTIFICATION	APR 1984
52.224-2	PRIVACY ACT	APR 1984
52.233-1	DISPUTES	JUL 2002
52.233-3	PROTEST AFTER AWARD	AUG 1996
52.242-13	BANKRUPTCY	JUL 1995
52.249-8	DEFAULT (FIXED-PRICE SUPPLY AND SERVICE)	APR 1984
852.203-70	COMMERCIAL ADVERTISING	JAN 2008

### C.3 52.247-34 F.O.B. DESTINATION (NOV 1991)

(a) The term "f.o.b. destination," as used in this clause, means --

(1) Free of expense to the Government, on board the carrier's conveyance, at a specified delivery point where the consignee's facility (plant, warehouse, store, lot, or other location to which shipment can be made) is located; and

(2) Supplies shall be delivered to the destination consignee's wharf (if destination is a port city and supplies are for export), warehouse unloading platform, or receiving dock, at the expense of the Contractor. The Government shall not be liable for any delivery, storage, demurrage, accessorial, or other charges involved before the actual delivery (or "constructive placement" as defined in carrier tariffs) of the supplies to the destination, unless such charges are caused by an act or order of the Government acting in its contractual capacity. If rail carrier is used, supplies shall be delivered to the specified unloading platform of the consignee. If motor carrier (including "piggyback") is used, supplies shall be delivered to truck tailgate at the unloading platform of the consignee, except when the supplies delivered meet the requirements of Item 568 of the National Motor Freight Classification for "heavy or bulky freight." When supplies meeting the requirements of the referenced Item 568 are delivered, unloading (including movement to the tailgate) shall be performed by the consignee, with assistance from the truck driver, if requested. If the contractor uses rail carrier or freight forwarder for less than carload shipments, the contractor shall ensure that the carrier will furnish tailgate delivery, when required, if transfer to truck is required to complete delivery to consignee.

(b) The Contractor shall--

(1)(i) Pack and mark the shipment to comply with contract specifications; or

(ii) In the absence of specifications, prepare the shipment in conformance with carrier requirements;

(2) Prepare and distribute commercial bills of lading;

(3) Deliver the shipment in good order and condition to the point of delivery specified in the contract;



(4) Be responsible for any loss of and/or damage to the goods occurring before receipt of the shipment by the consignee at the delivery point specified in the contract;

(5) Furnish a delivery schedule and designate the mode of delivering carrier; and

(6) Pay and bear all charges to the specified point of delivery.

(End of Clause)

#### **C.4 52.246-4 INSPECTION OF SERVICES--FIXED-PRICE (AUG 1996)**

(a) *Definitions.* "Services," as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.

(c) The Government has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.

(d) If the Government performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.

(e) If any of the services do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by re-performance, the Government may (1) require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and (2) reduce the contract price to reflect the reduced value of the services performed.

(f) If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Government may (1) by contract or otherwise, perform the services and charge to the Contractor any cost incurred by the Government that is directly related to the performance of such service or (2) terminate the contract for default.

(End of Clause)

#### **C.5 52.216-18 ORDERING (OCT 1995)**

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from the effective date of the contract award through the end of one year.

(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

(c) If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.

(End of Clause)

**C.6 52.216-19 ORDER LIMITATIONS (OCT 1995)**

(a) *Minimum order.* When the Government requires supplies or services covered by this contract in an amount of less than EIGHT HOURS, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

(b) *Maximum order.* The Contractor is not obligated to honor—

(1) Any order for a single item in excess of the contract ceiling;

(2) Any order for a combination of items in excess of the contract ceiling; or

(3) A series of orders from the same ordering office within 2 days that together call for quantities exceeding the limitation in paragraph (b)(1) or (2) of this section.

(c) If this is a requirements contract (i.e., includes the Requirements clause at subsection 52.216-21 of the Federal Acquisition Regulation (FAR)), the Government is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum-order limitations in paragraph (b) of this section.

(d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within 5 days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

(End of Clause)

**C.7 52.216-22 INDEFINITE QUANTITY (OCT 1995)**

(a) This is an indefinite-quantity contract for the supplies or services specified and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the "maximum." The Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum."

(c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; *provided* that the Contractor shall not be required to make any deliveries under this contract after the contract expiration date (**one year after date of award**).

(End of Clause)

**C.8 52.217-8 OPTION TO EXTEND SERVICES (NOV 1999)**

The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within 30 days.

(End of Clause)

**C.9 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)**

(a) The Government may extend the term of this contract by written notice to the Contractor within 30 days; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 30 days before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option clause.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed 04/30/2016.

(End of Clause)

**C.10 52.228-5 INSURANCE—WORK ON A GOVERNMENT INSTALLATION (JAN 1997)**

(a) The Contractor shall, at its own expense, provide and maintain during the entire performance of this contract, at least the kinds and minimum amounts of insurance required in the Schedule or elsewhere in the contract.

(b) Before commencing work under this contract, the Contractor shall notify the Contracting Officer in writing that the required insurance has been obtained. The policies evidencing required insurance shall contain an endorsement to the effect that any cancellation or any material change adversely affecting the Government's interest shall not be effective—

(1) For such period as the laws of the State in which this contract is to be performed prescribe; or

(2) Until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer, whichever period is longer.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in subcontracts under this contract that require work on a Government installation and shall require subcontractors to provide and maintain the insurance required in the Schedule or elsewhere in the contract. The Contractor shall maintain a copy of all subcontractors' proofs of required insurance, and shall make copies available to the Contracting Officer upon request.

(End of Clause)

**C.12 52.219-28 POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION (JUL 2013)**

(a) *Definitions.* As used in this clause—

*Long-term contract* means a contract of more than five years in duration, including options. However, the term does not include contracts that exceed five years in duration because the period of performance has been extended for a cumulative period not to exceed six months under the clause at 52.217-8, Option to Extend Services, or other appropriate authority.

*Small business concern* means a concern, including its affiliates that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and the size standard in paragraph (c) of this clause. Such a concern is "not dominant in its field of operation" when it does not exercise a controlling or major influence on a national basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

(b) If the Contractor represented that it was a small business concern prior to award of this contract, the Contractor shall re-represent its size status according to paragraph (e) of this clause or, if applicable, paragraph (g) of this clause, upon the occurrence of any of the following:

(1) Within 30 days after execution of a novation agreement or within 30 days after modification of the contract to include this clause, if the novation agreement was executed prior to inclusion of this clause in the contract.

(2) Within 30 days after a merger or acquisition that does not require a novation or within 30 days after modification of the contract to include this clause, if the merger or acquisition occurred prior to inclusion of this clause in the contract.

(3) For long-term contracts—

(i) Within 60 to 120 days prior to the end of the fifth year of the contract; and

(ii) Within 60 to 120 days prior to the date specified in the contract for exercising any option thereafter.

(c) The Contractor shall re-represent its size status in accordance with the size standard in effect at the time of this re-representation that corresponds to the North American Industry Classification System (NAICS) code assigned to this contract. The small business size standard corresponding to this NAICS code can be found at <http://www.sba.gov/content/table-small-business-size-standards>.

(d) The small business size standard for a Contractor providing a product which it does not manufacture itself, for a contract other than a construction or service contract, is 500 employees.

(e) Except as provided in paragraph (g) of this clause, the Contractor shall make the representation required by paragraph (b) of this clause by validating or updating all its representations in the Representations and Certifications section of the System for Award Management (SAM) and its other data in SAM, as necessary, to ensure that they reflect the Contractor's current status. The Contractor shall notify the contracting office in writing within the timeframes specified in paragraph (b) of this clause that the data have been validated or updated, and provide the date of the validation or update.

(f) If the Contractor represented that it was other than a small business concern prior to award of this contract, the Contractor may, but is not required to, take the actions required by paragraphs (e) or (g) of this clause.

(g) If the Contractor does not have representations and certifications in SAM, or does not have a representation in SAM for the NAICS code applicable to this contract, the Contractor is required to complete the following re-representation and submit it to the contracting office, along with the contract number and the date on which the re-representation was completed:

The Contractor represents that it [ ] is, [ ] is not a small business concern under NAICS Code 622110 assigned to contract number.

[Contractor to sign and date and insert authorized signer's name and title].

(End of Clause)

### C.13 852.232-72 ELECTRONIC SUBMISSION OF PAYMENT REQUESTS (NOV 2012)

(a) *Definitions.* As used in this clause—

(1) *Contract financing payment* has the meaning given in FAR 32.001.

(2) *Designated agency office* has the meaning given in 5 CFR 1315.2(m).

(3) *Electronic form* means an automated system transmitting information electronically according to the

Accepted electronic data transmission methods and formats identified in paragraph (c) of this clause. Facsimile, email, and scanned documents are not acceptable electronic forms for submission of payment requests.

(4) *Invoice payment* has the meaning given in FAR 32.001.

(5) *Payment request* means any request for contract financing payment or invoice payment submitted by the contractor under this contract.

(b) *Electronic payment requests.* Except as provided in paragraph (e) of this clause, the contractor shall submit payment requests in electronic form. Purchases paid with a Government-wide commercial purchase card are considered to be an electronic transaction for purposes of this rule, and therefore no additional electronic invoice submission is required.

(c) *Data transmission.* A contractor must ensure that the data transmission method and format are through one of the following:

(1) VA's Electronic Invoice Presentment and Payment System. (See Web site at <http://www.fsc.va.gov/einvoice.asp>.)

(2) Any system that conforms to the X12 electronic data interchange (EDI) formats established by the Accredited Standards Center (ASC) and chartered by the American National Standards Institute (ANSI). The X12 EDI Web site (<http://www.x12.org>) includes additional information on EDI 810 and 811 formats.

(d) *Invoice requirements.* Invoices shall comply with FAR 32.905.

(e) *Exceptions.* If, based on one of the circumstances below, the contracting officer directs that payment requests be made by mail, the contractor shall submit payment requests by mail through the United States Postal Service to the designated agency office. Submission of payment requests by mail may be required for:

(1) Awards made to foreign vendors for work performed outside the United States;

(2) Classified contracts or purchases when electronic submission and processing of payment requests could compromise the safeguarding of classified or privacy information;

(3) Contracts awarded by contracting officers in the conduct of emergency operations, such as responses to national emergencies;

(4) Solicitations or contracts in which the designated agency office is a VA entity other than the VA Financial Services Center in Austin, Texas; or

(5) Solicitations or contracts in which the VA designated agency office does not have electronic invoicing capability as described above.

(End of Clause)

## **C.14 VAAR 852.237-7 INDEMNIFICATION AND MEDICAL LIABILITY INSURANCE (JAN 2008)**

(a) It is expressly agreed and understood that this is a non- personal services contract, as defined in Federal Acquisition Regulation (FAR) 37.101, under which the professional services rendered by the Contractor or its health-care providers are rendered in its capacity as an independent contractor. The Government may evaluate the quality of professional and administrative services provided but retains no control over professional aspects of the services rendered, including by example, the Contractor's or its health-care providers' professional medical judgment, diagnosis, or specific medical treatments. The Contractor and its health-care providers shall be liable for their liability-producing acts or omissions. The Contractor shall maintain or require all health-care providers performing under this contract to maintain, during the term of this contract, professional liability insurance issued by a responsible insurance carrier of not less than the following amount(s) per specialty per occurrence: \* \_\_\_\_\_. However, if the Contractor is an entity or a subdivision of a State that either provides for self-insurance or limits the liability or the amount of insurance purchased by State entities, then the insurance requirement of this contract shall be fulfilled by incorporating the provisions of the applicable State law.

\* Amounts are listed below:

(b) An apparently successful offeror, upon request of the Contracting Officer, shall, prior to contract award, furnish evidence of the insurability of the offeror and/or of all health- care providers who will perform under this contract. The submission shall provide evidence of insurability concerning the medical liability insurance required by paragraph (a) of this clause or the provisions of State law as to self-insurance, or limitations on liability or insurance.

(c) The Contractor shall, prior to commencement of services under the contract, provide to the Contracting Officer Certificates of Insurance or insurance policies evidencing the required insurance coverage and an endorsement stating that any cancellation or material change adversely affecting the Government's interest shall not be effective until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer. Certificates or policies shall be provided for the Contractor and/or each health- care provider who will perform under this contract.

(d) The Contractor shall notify the Contracting Officer if it, or any of the health-care providers performing under this contract, change insurance providers during the performance period of this contract. The notification shall provide evidence that the Contractor and/or health-care providers will meet all the requirements of this clause, including those concerning liability insurance and endorsements. These requirements may be met either under the new policy, or a combination of old and new policies, if applicable.

(e) The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts for health-care services under this contract. The Contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraph (a) of this clause.

\* Amounts from paragraph (a) above:

**\$1 MILLION PER OCCURRENCE**

**\$3 MILLION PER AGGREGATE**

(End of Clause)

**C.15 VAAR 852.237-70 CONTRACTOR RESPONSIBILITIES (APR 1984)**

The contractor shall obtain all necessary licenses and/or permits required to perform this work. He/she shall take all reasonable precautions necessary to protect persons and property from injury or damage during the performance of this contract. He/she shall be responsible for any injury to himself/herself, his/her employees, as well as for any damage to personal or public property that occurs during the performance of this contract that is caused by his/her employees fault or negligence, and shall maintain personal liability and property damage insurance having coverage for a limit as required by the laws of the State of MARYLAND. Further, it is agreed that any negligence of the Government, its officers, agents, servants and employees, shall not be the responsibility of the contractor hereunder with the regard to any claims, loss, damage, injury, and liability resulting there from.

(End of Clause)

**C.16 VAAR 852.270-1 REPRESENTATIVES OF CONTRACTING OFFICERS (JAN 2008)**

The contracting officer reserves the right to designate representatives to act for him/her in furnishing technical guidance and advice or generally monitor the work to be performed under this contract. Such designation will be in writing and will define the scope and limitation of the designee's authority. A copy of the designation shall be furnished to the contractor.

(End of Provision)

**C.17 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL ITEMS (JAN 2014)**

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

(1) 52.222-50, Combating Trafficking in Persons (FEB 2009) (22 U.S.C. 7104(g)).

Alternate I (AUG 2007) of 52.222-50 (22 U.S.C. 7104 (g)).

(2) 52.233-3, Protest After Award (Aug 1996) (31 U.S.C. 3553).

(3) 52.233-4, Applicable Law for Breach of Contract Claim (Oct 2004) (Pub. L. 108-77, 108-78).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

**[X]** (1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Sept 2006), with Alternate I (Oct 1995) (41 U.S.C. 253g and 10 U.S.C. 2402).

**[X]** (2) 52.203-13, Contractor Code of Business Ethics and Conduct (APR 2010)(Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).



☒ (3) 52.203-15, Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (JUN 2010) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)

☐ (4) 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards (Jul 2013) (Pub. L. 109-282) (31 U.S.C. 6101 note).

☐ (5) 52.204-11, American Recovery and Reinvestment Act-Reporting Requirements (JUL 2010) (Pub. L. 111-5).

☐ (6) 52.204-14, Service Contract Reporting Requirements (JAN 2014) (Pub. L. 111-117, section 743 of Div. C).

☐ (7) 52.204-15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts (JAN 2014) (Pub. L. 111-117, section 743 of Div. C).

☒ (8) 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (Aug 2013) (31 U.S.C. 6101 note).

☐ (9) 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters (Jul 2013) (41 U.S.C. 2313).

☐ (10) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (MAY 2012) (section 738 of Division C of Pub. L. 112-74, section 740 of Division C of Pub. L. 111-117, section 743 of Division D of Pub. L. 111-8, and section 745 of Division D of Pub. L. 110-161).

☐ (11) 52.219-3, Notice of HUB-Zone Set-Aside or Sole Source Award (NOV 2011) (15 U.S.C. 657a).

☒ (12) 52.219-4, Notice of Price Evaluation Preference for HUB-Zone Small Business Concerns (JAN 2011) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).

☐ (13) [Reserved]

☐ (14)(i) 52.219-6, Notice of Total Small Business Set-Aside (NOV 2011) (15 U.S.C. 644).

☐ (ii) Alternate I (NOV 2011).

☐ (iii) Alternate II (NOV 2011).

☐ (15)(i) 52.219-7, Notice of Partial Small Business Set-Aside (June 2003) (15 U.S.C. 644).

☐ (ii) Alternate I (Oct 1995) of 52.219-7.

☐ (iii) Alternate II (Mar 2004) of 52.219-7.

☒ (16) 52.219-8, Utilization of Small Business Concerns (Jul 2013) (15 U.S.C. 637(d)(2) and (3)).

☐ (17)(i) 52.219-9, Small Business Subcontracting Plan (Jul 2013) (15 U.S.C. 637(d)(4)).

☐ (ii) Alternate I (Oct 2001) of 52.219-9.

☐ (iii) Alternate II (Oct 2001) of 52.219-9.

☐ (iv) Alternate III (JUL 2010) of 52.219-9.

☒ (18) 52.219-13, Notice of Set-Aside of Orders (NOV 2011) (15 U.S.C. 644(r)).



- ☐ (19) 52.219-14, Limitations on Subcontracting (NOV 2011) (15 U.S.C. 637(a)(14)).
- ☐ (20) 52.219-16, Liquidated Damages—Subcontracting Plan (Jan 1999) (15 U.S.C. 637(d)(4)(F)(i)).
- ☐ (21)(i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (OCT 2008) (10 U.S.C. 2323) (if the offeror elects to waive the adjustment, it shall so indicate in its offer.)
- ☐ (ii) Alternate I (June 2003) of 52.219-23.
- ☐ (22) 52.219-25, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting (Jul 2013) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- ☐ (23) 52.219-26, Small Disadvantaged Business Participation Program—Incentive Subcontracting (Oct 2000) (Pub. L. 103-355, section 7102, and 10 U.S.C. 2323).
- ☐ (24) 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (NOV 2011) (15 U.S.C. 657f).
- ☒ (25) 52.219-28, Post Award Small Business Program Re-representation (Jul 2013) (15 U.S.C. 632(a)(2)).
- ☐ (26) 52.219-29, Notice of Set-Aside for Economically Disadvantaged Women-Owned Small Business (EDWOSB) Concerns (Jul 2013) (15 U.S.C. 637(m)).
- ☐ (27) 52.219-30, Notice of Set-Aside for Women-Owned Small Business (WOSB) Concerns Eligible Under the WOSB Program (Jul 2013) (15 U.S.C. 637(m)).
- ☒ (28) 52.222-3, Convict Labor (June 2003) (E.O. 11755).
- ☒ (29) 52.222-19, Child Labor—Cooperation with Authorities and Remedies (JAN 2014) (E.O. 13126).
- ☒ (30) 52.222-21, Prohibition of Segregated Facilities (Feb 1999).
- ☒ (31) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).
- ☒ (32) 52.222-35, Equal Opportunity for Veterans (SEP 2010) (38 U.S.C. 4212).
- ☒ (33) 52.222-36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).
- ☒ (34) 52.222-37, Employment Reports on Veterans (SEP 2010) (38 U.S.C. 4212).
- ☒ (35) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496).
- ☒ (36) 52.222-54, Employment Eligibility Verification (AUG 2013). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)
- ☐ (37)(i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Items (May 2008) (42 U.S.C. 6962(c)(3)(A)(ii)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
- ☐ (ii) Alternate I (MAY 2008) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

- ☐ (38) 52.223-15, Energy Efficiency in Energy-Consuming Products (DEC 2007)(42 U.S.C. 8259b).
- ☐ (39)(i) 52.223-16, IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products (DEC 2007) (E.O. 13423).
- ☐ (ii) Alternate I (DEC 2007) of 52.223-16.
- ☒ (40) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging While Driving (AUG 2011)
- ☐ (41) 52.225-1, Buy American Act—Supplies (FEB 2009) (41 U.S.C. 10a-10d).
- ☐ (42)(i) 52.225-3, Buy American Act—Free Trade Agreements—Israeli Trade Act (NOV 2012) (41 U.S.C. chapter 83, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, 19 U.S.C. 4001 note, Pub. L. 103-182, 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42, and 112-43).
- ☐ (ii) Alternate I (MAR 2012) of 52.225-3.
- ☐ (iii) Alternate II (MAR 2012) of 52.225-3.
- ☐ (iv) Alternate III (NOV 2012) of 52.225-3.
- ☒ (43) 52.225-5, Trade Agreements (NOV 2013) (19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).
- ☒ (44) 52.225-13, Restrictions on Certain Foreign Purchases (JUN 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).
- ☐ (45) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Jul 2013) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).
- ☐ (46) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).
- ☐ (47) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).
- ☒ (48) 52.232-29, Terms for Financing of Purchases of Commercial Items (Feb 2002) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).
- ☐ (49) 52.232-30, Installment Payments for Commercial Items (Oct 1995) (41 U.S.C. 255(f), 10 U.S.C. 2307(f)).
- ☒ (50) 52.232-33, Payment by Electronic Funds Transfer—System for Award Management (Jul 2013) (31 U.S.C. 3332).
- ☐ (51) 52.232-34, Payment by Electronic Funds Transfer—Other than System for Award Management (Jul 2013) (31 U.S.C. 3332).
- ☐ (52) 52.232-36, Payment by Third Party (Jul 2013) (31 U.S.C. 3332).
- ☒ (53) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).
- ☐ (54)(i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631).
- ☐ (ii) Alternate I (Apr 2003) of 52.247-64.

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

☐ (1) 52.222-41, Service Contract Act of 1965 (Nov 2007) (41 U.S.C. 351, et seq.).

☐ (2) 52.222-42, Statement of Equivalent Rates for Federal Hires (May 1989) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

☐ (3) 52.222-43, Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year and Option Contracts) (Sep 2009) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

☐ (4) 52.222-44, Fair Labor Standards Act and Service Contract Act—Price Adjustment (Sep 2009) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

☐ (5) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (Nov 2007) (41 U.S.C. 351, et seq.).

☐ (6) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services—Requirements (FEB 2009) (41 U.S.C. 351, et seq.).

☒ (7) 52.222-17, Non-displacement of Qualified Workers (JAN 2013) (E.O.13495).

☐ (8) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (MAR 2009)(Pub. L. 110-247)

☒ (9) 52.237-11, Accepting and Dispensing of \$1 Coin (SEP 2008) (31 U.S.C. 5112(p)(1)).

(d) Comptroller General Examination of Record. The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records—Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e)(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c), and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in this paragraph (e)(1) in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause—

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (APR 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)).

(ii) 52.219-8, Utilization of Small Business Concerns (Jul 2013) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$650,000 (\$1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(iii) 52.222-17, Non-displacement of Qualified Workers (JAN 2013) (E.O. 13495). Flow down required in accordance with paragraph (l) of FAR clause 52.222-17.

(iv) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).

(v) 52.222-35, Equal Opportunity for Veterans (SEP 2010) (38 U.S.C. 4212).

(vi) 52.222-36, Affirmative Action for Workers with Disabilities (Oct 2010) (29 U.S.C. 793).

(vii) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause 52.222-40.

(viii) 52.222-41, Service Contract Act of 1965 (Nov 2007) (41 U.S.C. 351, et seq.).

(ix) 52.222-50, Combating Trafficking in Persons (FEB 2009) (22 U.S.C. 7104(g)).

Alternate I (AUG 2007) of 52.222-50 (22 U.S.C. 7104(g)).

(x) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements "(Nov 2007)" (41 U.S.C. 351, et seq.).

(xi) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services-Requirements (FEB 2009)(41 U.S.C. 351, et seq.).

(xii) 52.222-54, Employment Eligibility Verification (AUG 2013).

(xiii) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Jul 2013) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).

(xiv) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (MAR 2009)(Pub. L. 110-247). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

(xv) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.

(2) While not required, the contractor may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of Clause)

## SECTION D - CONTRACT DOCUMENTS, EXHIBITS, OR ATTACHMENTS

### D.1 QUALITY ASSURANCE SURVEILLANCE PLAN (QASP)

The contractor shall be evaluated in accordance with the following QASP:

**For:** Respiratory Therapy Services

**Contract Number:** \_\_\_\_\_

**Contract Description:** Respiratory Therapy services for patients at the Baltimore VA Medical Center.

**Contractor's name:** \_\_\_\_\_

#### 1. PURPOSE

This Quality Assurance Surveillance Plan (QASP) provides a systematic method to evaluate performance for the stated contract. This QASP explains the following:

- What will be monitored?
- How monitoring will take place.
- Who will conduct the monitoring?
- How monitoring efforts and results will be documented.

This QASP does not detail how the contractor accomplishes the work. Rather, the QASP is created with the premise that the contractor is responsible for management and quality control actions to meet the terms of the contract. It is the Government's responsibility to be objective, fair, and consistent in evaluating performance.

This QASP is a "living document" and the Government may review and revise it on a regular basis. However, the Government shall coordinate changes with the contractor. Copies of the original QASP and revisions shall be provided to the contractor and Government officials implementing surveillance activities.

#### 2. GOVERNMENT ROLES AND RESPONSIBILITIES

The following personnel shall oversee and coordinate surveillance activities.

a. Contracting Officer (CO) - The CO shall ensure performance of all necessary actions for effective contracting, ensure compliance with the contract terms, and shall safeguard the interests of the United States in the contractual relationship. The CO shall also assure that the contractor receives impartial, fair and equitable treatment under this contract. The CO is ultimately responsible for the final determination of the adequacy of the contractor's performance.

Assigned CO: **Paschal L. Dawson, Contracting Officer**

Organization or Agency: **Department of Veterans Affairs, VA Maryland Health Care System**

b. Contracting Officer's Technical Representative (COR) - The COR is responsible for technical administration of the contract and shall assure proper Government surveillance of the contractor's performance. The COR shall keep a quality

assurance file. The COR is not empowered to make any contractual commitments or to authorize any contractual changes on the Government's behalf.

Assigned COR: \_\_\_\_\_

### 3. CONTRACTOR REPRESENTATIVES

The following employees of the contractor serve as the contractor's program manager for this contract.

a. Program Manager: \_\_\_\_\_

b. Other Contractor Personnel: \_\_\_\_\_

### 4. PERFORMANCE STANDARDS

Performance standards define desired services. The Government performs surveillance to determine if the contractor exceeds, meets or does not meet these standards.

The Performance Requirements are listed below in Section 6. The Government shall use these standards to determine contractor performance and shall compare contractor performance to the Acceptable Quality Level (AQL).

### 5. METHODS OF QA SURVEILLANCE

Various methods exist to monitor performance. The COR will use the surveillance methods listed below in the administration of this QASP.

MEASURE	FREQUENCY	ACCEPTABLE QUALITY LEVEL (AQL)	SURVEILLANCE METHOD
<b>NBRC licenses</b>	Upon assignment to the VAMHCS	100% compliance before assignment to work at VAMHCS	Copies of current, valid licenses shall be provided
Contractor's documentation of patient assessment, disease management, diagnostic evaluation, management, education, therapies, ventilator settings, rehabilitation and care of patients with deficiencies and abnormalities of the cardiopulmonary system. VAMHCS Chief / Assistant Chief of Respiratory will complete assessment of the contractor's performance on Agency Respiratory Therapy chart review form (attached) on a quarterly basis.	Quarterly	100% compliance within allocated response time. Completed documentation audit is evaluated by Chief/ Assistant Chief of Respiratory. Unsatisfactory comment(s) shall be discussed and documented at a meeting with the Medical Care Clinical Center Business Manager and VAMHCS Respiratory Therapy Chief.	Chart audits performed by VAMHCS' Chief / Assistant Chief of Respiratory Therapy on all VAMHCS electronic documentation programs (ICIP, BCMA and CPRS) documentation using the Agency Respiratory Therapy chart review form (attached). Monitor results on a quarterly basis.

Contractor shall submit copies of current BLS certifications.	24 Months	100% compliance	Copy of current, valid BLS certificate shall be submitted
---	-----------	-----------------	---

**a. VALIDATED USER/CUSTOMER COMPLAINTS.** Patient complaints with the Respiratory care treatments received by the Consumer Relations Department will be reviewed by the Chief of Respiratory Therapy on a daily basis.

**b. RANDOM SAMPLING.** The Contractor chart audits will be performed by reviewing 20 random charts/ contractor each quarter.

c. Verification and/or documentation provided by contractor.

## **6. DOCUMENTING PERFORMANCE**

### **a. Acceptable Performance**

The Government shall document positive performance. Any report may become a part of the supporting documentation for any contractual action.

### **b. Unacceptable Performance**

When unacceptable performance occurs, the COR shall inform the contractor. This will normally be in writing unless circumstances necessitate verbal communication. In any case the COR shall document the discussion and place it in the COR file.

When the COR determines formal written communication is required, the COR shall prepare a Contract Discrepancy Report (CDR), and present it to the contractor's program manager.

The contractor shall acknowledge receipt of the CDR in writing. The CDR will specify if the contractor is required to prepare a corrective action plan to document how the contractor shall correct the unacceptable performance and avoid a recurrence. The CDR will also state how long after receipt the contractor has to present this corrective action plan to the COR. The Government shall review the contractor's corrective action plan to determine acceptability.

Any CDRs may become a part of the supporting documentation for any contractual action deemed necessary by the CO.

## **7. FREQUENCY OF MEASUREMENT**

### **a. Frequency of Measurement.**

During contract performance, the COR will periodically analyze whether the negotiated frequency of surveillance is appropriate for the work being performed.

### **b. Frequency of Performance Assessment Meetings.**

The COR shall meet with the contractor semi-annually to assess performance and shall provide a written assessment.

---

Signature – Contractor Program Manager

---

Signature – Contracting Officer's Representative



## D.2 BUSINESS ASSOCIATE AGREEMENT BETWEEN THE DEPARTMENT OF VETERANS AFFAIRS VETERANS HEALTH ADMINISTRATION AND

**Purpose.** The purpose of this Business Associate Agreement (Agreement) is to establish requirements for the Department of Veterans Affairs (VA) Veterans Health Administration (VHA) and in accordance with the Health Insurance Portability and Accountability Act (HIPAA), the Health Information Technology for Economic and Clinical Health Act (HITECH) Act, and the HIPAA Privacy, Security, Breach Notification, and Enforcement Rules (“HIPAA Rules”), 45 C.F.R. Parts 160 and 164, for the Use and Disclosure of Protected Health Information (PHI) under the terms and conditions specified below.

**Scope.** Under this Agreement and other applicable contracts or agreements, will provide services to, for, or on behalf of VHA.

In order for to provide such services, VHA will disclose Protected Health Information to and will use or disclose Protected Health Information in accordance with this Agreement.

**Definitions.** Unless otherwise provided, the following terms used in this Agreement have the same meaning as defined by the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information (PHI), Required by Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

**“Business Associate”** shall have the same meaning as described at 45 C.F.R. § 160.103. For the purposes of this Agreement, Business Associate shall refer to , including its employees, officers, or any other agents that create, receive, maintain, or transmit PHI as described below.

**“Covered Entity”** shall have the same meaning as the term is defined at 45 C.F.R. § 160.103. For the purposes of this Agreement, Covered Entity shall refer to VHA.

**“Protected Health Information” or “PHI”** shall have the same meaning as described at 45 C.F.R. § 160.103. “Protected Health Information” and “PHI” as used in this Agreement include “Electronic Protected Health Information” and “EPHI.” For the purposes of this Agreement and unless otherwise provided, the term shall also refer to PHI that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity or receives from Covered Entity or another Business Associate.

**“Subcontractor”** shall have the same meaning as the term is defined at 45 C.F.R. § 160.103. For the purposes of this Agreement, Subcontractor shall refer to a contractor of any person or entity, other than Covered Entity, that creates, receives, maintains, or transmits PHI under the terms of this Agreement.

**Terms and Conditions.** Covered Entity and Business Associate agree as follows:

1. **Ownership of PHI.** PHI is and remains the property of Covered Entity as long as Business Associate creates, receives, maintains, or transmits PHI, regardless of whether a compliant Business Associate agreement is in place.

2. **Use and Disclosure of PHI by Business Associate.** Unless otherwise provided, Business Associate:

A. May not use or disclose PHI other than as permitted or required by this Agreement, or in a manner that would violate the HIPAA Privacy Rule if done by Covered Entity, except that it may use or disclose PHI:

(1) As required by law or to carry out its legal responsibilities;

(2) For the proper management and administration of Business Associate; or

(3) To provide Data Aggregation services relating to the health care operations of Covered Entity.

B. Must use or disclose PHI in a manner that complies with Covered Entity's minimum necessary policies and procedures.

C. May de-identify PHI created or received by Business Associate under this Agreement at the request of the Covered Entity, provided that the de-identification conforms to the requirements of the HIPAA Privacy Rule.

**3. Obligations of Business Associate.** In connection with any Use or Disclosure of PHI, Business Associate must:

A. Consult with Covered Entity before using or disclosing PHI whenever Business Associate is uncertain whether the Use or Disclosure is authorized under this Agreement.

B. Implement appropriate administrative, physical, and technical safeguards and controls to protect PHI and document applicable policies and procedures to prevent any Use or Disclosure of PHI other than as provided by this Agreement.

C. Provide satisfactory assurances that PHI created or received by Business Associate under this Agreement is protected to the greatest extent feasible.

D. Notify Covered Entity within twenty-four (24) hours of Business Associate's discovery of any potential access, acquisition, use, disclosure, modification, or destruction of either secured or unsecured PHI in violation of this Agreement, including any Breach of PHI.

(1) Any incident as described above will be treated as discovered as of the first day on which such event is known to Business Associate or, by exercising reasonable diligence, would have been known to Business Associate.

(2) Notification shall be sent to the Director, Health Information Governance, by email to [VHABAAIssues@va.gov](mailto:VHABAAIssues@va.gov).

(3) Business Associate shall not notify individuals or HHS directly unless Business Associate is not acting as an agent of Covered Entity but in its capacity as a Covered Entity itself.

E. Provide a written report to Covered Entity of any potential access, acquisition, use, disclosure, modification, or destruction of either secured or unsecured PHI in violation of this Agreement, including any Breach of PHI, within ten (10) business days of the initial notification.

(1) The written report of an incident as described above will document the following:

(a) The identity of each Individual whose PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, used, disclosed, modified, or destroyed;

(b) A description of what occurred, including the date of the incident and the date of the discovery of the incident (if known);

(c) A description of the types of secured or unsecured PHI that was involved;

(d) A description of what is being done to investigate the incident, to mitigate further harm to Individuals, and to protect against future incidents; and

(e) Any other information as required by 45 C.F.R. §§ 164.404(c) and 164.410.

(2) The written report shall be addressed to:

Director, Health Information Governance

Department of Veterans Affairs – Veterans Health Administration

Office of Informatics and Analytics (10P)

810 Vermont Avenue NW

Washington, DC 20420

and submitted by email at [VHABAAIssues@va.gov](mailto:VHABAAIssues@va.gov)

F. To the greatest extent feasible, mitigate any harm due to a Use or Disclosure of PHI by Business Associate in violation of this Agreement that is known or, by exercising reasonable diligence, should have been known to Business Associate.

G. Use only contractors and Subcontractors that are physically located within a jurisdiction subject to the laws of the United States, and ensure that no contractor or Subcontractor maintains, processes, uses, or discloses PHI in any way that will remove the information from such jurisdiction. Any modification to this provision must be approved by Covered Entity in advance and in writing.

H. Enter into Business Associate Agreements with contractors and Subcontractors as appropriate under the HIPAA Rules and this Agreement. Business Associate:

(1) Must ensure that the terms of any Agreement between Business Associate and a contractor or Subcontractor are at least as restrictive as Business Associate Agreement between Business Associate and Covered Entity.

(2) Must ensure that contractors and Subcontractors agree to the same restrictions and conditions that apply to Business Associate and obtain satisfactory written assurances from them that they agree to those restrictions and conditions.

(3) May not amend any terms of such Agreement without Covered Entity's prior written approval.

I. Within five (5) business days of a written request from Covered Entity:

(1) Make available information for Covered Entity to respond to an Individual's request for access to PHI about him/her.

(2) Make available information for Covered Entity to respond to an Individual's request for amendment of PHI about him/her and, as determined by and under the direction of Covered Entity, incorporate any amendment to the PHI.

(3) Make available PHI for Covered Entity to respond to an Individual's request for an accounting of Disclosures of PHI about him/her.

J. Business Associate may not take any action concerning an individual's request for access, amendment, or accounting other than as instructed by Covered Entity.

K. To the extent Business Associate is required to carry out Covered Entity's obligations under Subpart E of 45 CFR Part 164, comply with the provisions that apply to Covered Entity in the performance of such obligations.

L. Provide to the Secretary of Health and Human Services and to Covered Entity records related to Use or Disclosure of PHI, including its policies, procedures, and practices, for the purpose of determining Covered Entity's, Business Associate's, or a Subcontractor's compliance with the HIPAA Rules.

M. Upon completion or termination of the applicable contract(s) or agreement(s), return or destroy, as determined by and under the direction of Covered Entity, all PHI and other VA data created or received by Business Associate during the

performance of the contract(s) or agreement(s). No such information will be retained by Business Associate unless retention is required by law or specifically permitted by Covered Entity. If return or destruction is not feasible, Business Associate shall continue to protect the PHI in accordance with the Agreement and use or disclose the information only for the purpose of making the return or destruction feasible, or as required by law or specifically permitted by Covered Entity. Business Associate shall provide written assurance that either all PHI has been returned or destroyed, or any information retained will be safeguarded and used and disclosed only as permitted under this paragraph.

N. Be liable to Covered Entity for civil or criminal penalties imposed on Covered Entity, in accordance with 45 C.F.R. §§ 164.402 and 164.410, and with the HITECH Act, 42 U.S.C. §§ 17931(b), 17934(c), for any violation of the HIPAA Rules or this Agreement by Business Associate.

**4. Obligations of Covered Entity.** Covered Entity agrees that it:

A. Will not request Business Associate to make any Use or Disclosure of PHI in a manner that would not be permissible under Subpart E of 45 C.F.R. Part 164 if made by Covered Entity, except as permitted under Section 2 of this Agreement.

B. Will promptly notify Business Associate in writing of any restrictions on Covered Entity's authority to use or disclose PHI that may limit Business Associate's Use or Disclosure of PHI or otherwise affect its ability to fulfill its obligations under this Agreement.

C. Has obtained or will obtain from Individuals any authorization necessary for Business Associate to fulfill its obligations under this Agreement.

D. Will promptly notify Business Associate in writing of any change in Covered Entity's Notice of Privacy Practices, or any modification or revocation of an Individual's authorization to use or disclose PHI, if such change or revocation may limit Business Associate's Use and Disclosure of PHI or otherwise affect its ability to perform its obligations under this Agreement.

5. Amendment. Business Associate and Covered Entity will take such action as is necessary to amend this Agreement for Covered Entity to comply with the requirements of the HIPAA Rules or other applicable law.

**6. Termination.**

**A. Automatic Termination.** This Agreement will automatically terminate upon completion of Business Associate's duties under all underlying Agreements or by termination of such underlying Agreements.

**B. Termination Upon Review.** This Agreement may be terminated by Covered Entity, at its discretion, upon review as provided by Section 9 of this Agreement.

**C. Termination for Cause.** In the event of a material breach by Business Associate, Covered Entity:

(1) Will provide an opportunity for Business Associate to cure the breach or end the violation within the time specified by Covered Entity;

(2) May terminate this Agreement and underlying contract(s) if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity.

**D. Effect of Termination.** Termination of this Agreement will result in cessation of activities by Business Associate involving PHI under this Agreement.

**E. Survival.** The obligations of Business Associate under this Section shall survive the termination of this Agreement as long as Business Associate creates, receives, maintains, or transmits PHI, regardless of whether a compliant Business Associate Agreement is in place.

**7. No Third Party Beneficiaries.** Nothing expressed or implied in this Agreement confers any rights, remedies, obligations, or liabilities whatsoever upon any person or entity other than Covered Entity and Business Associate, including their respective successors or assigns.

**8. Other Applicable Law.** This Agreement does not abrogate any responsibilities of the parties under any other applicable law.

**9. Review Date.** The provisions of this Agreement will be reviewed by Covered Entity every two years from Effective Date to determine the applicability and accuracy of the Agreement based on the circumstances that exist at the time of review.

**10. Effective Date.** This Agreement shall be effective on the last signature date below.

**Department of Veterans Affairs  
Veterans Health Administration**

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

Department of Veterans Affairs  
Maryland Health Care System  
(VAMHCS)

SOP NO.111/MD-029

Medical Care Clinical Center

October 2007

## DOCUMENTATION OF THERAPY

**1. PURPOSE:** To establish guidelines for the content of documentation of therapy in the Computerized Patient Record System (CPRS).

**2. POLICY:** Documentation of the delivery of therapeutic modalities is to be comprehensive and complete.

**3. RESPONSIBILITIES:** The Respiratory Care Practitioner (RCP) is responsible for charting all pertinent information in the Respiratory Therapy template in CPRS.

**4. ACTION:**

a. Documentation of the delivery of therapeutic modalities is to be accomplished as soon as possible after the therapy has been administered. At no time should the practitioner wait until the end of the shift to do all of his/her charting.

b. Documentation of therapies administered is to include, but not be limited to:

(1) chart review performed (to include verification of orders)

(2) therapy administered and route/method of delivery

(3) medication used and dosage

(4) heart rate

(5) respiratory rate

(6) breath sounds

(7) quality of cough

(8) sputum production (amount, consistency, color, etc.)

(9) patient's tolerance of therapy

(10) adverse effects of therapy (must be communicated to the **patient's nurse and** physician and documented in the Notes section of the patient's record, as well)

(11) oxygen therapy that the patient is receiving (if any)

(12) education of the patient, family or visitors

**5. REFERENCES:** None

**6. RESPONSIBLE OFFICE:** The Chief, Respiratory Therapy (111 /MD) is responsible for the content of this standard operating procedure.

**8. RECERIFICATION DATE:** This document is **scheduled for recertification on/before** the last working day of October 2010.



PHILIJ4 MACKOWIAK, M.D.  
Director, Medical Care Clinical Center

RK COWAN, M.D.  
Chief, Pulmonary Section

## D.4 PAST PERFORMANCE QUESTIONNAIRE

Your assistance is requested by the Department of Veterans Affairs, VA Medical Center Baltimore, MD to assist with establishing the performance history for the Contractor named below. One of award criteria includes the evaluation of the quoter's past performance on prior or current contracts. It is for that purpose that we are requesting your reply to this questionnaire.

Please provide your candid responses. The information that you provide will be used in the awarding of federal contracts. Therefore, it is important that your information be as factual, accurate and complete as possible to preclude the need for follow-up by the evaluators. If you do not have knowledge of or experience with the company in question, please forward this Questionnaire to the person who does. The Questionnaire shall be treated as Source Selection Sensitive Information in accordance with FAR 3.104-7. No information will be released outside of the Evaluation Organization.

In order to expedite receipt of the requested information, the Contracting Office respectfully requests that you do not mail hard copies. Instead, please e-mail the completed questionnaire(s) to: [Paschal.Dawson@va.gov](mailto:Paschal.Dawson@va.gov) or fax to (410)637-1519 **no later than three (3) business days** after receipt. If you have any questions regarding the questionnaire, please email them or call (410) 637-1508. Thank you in advance for your cooperation.

### PART I. Solicitation Data (for the proposed effort)

Solicitation Number	
Project/Requirement	Respiratory Therapy Services
Customer/Agency	Dept. of Veterans Affairs, VA Medical Center Baltimore, MD
Project/Requirement Description	Contractor shall provide (1) qualified Respiratory Services for coverage on an as needed basis.

### PART II. (To be completed by the Offeror)

#### A. CONTRACT IDENTIFICATION

Contractor/Company Name/Division: \_\_\_\_\_

Address: \_\_\_\_\_

Program Identification/Title: \_\_\_\_\_

Contract Number: \_\_\_\_\_



Contract Type: \_\_\_\_\_

Prime Contractor Name (if different than the contractor name cited above:

\_\_\_\_\_

Contract Award Date: \_\_\_\_\_

Forecasted or Actual Contract Completion Date: \_\_\_\_\_

Contract Value: \_\_\_\_\_

Nature of the Contractual Effort or Items Purchased: \_\_\_\_\_

**B. IDENTIFICATION OF OFFEROR'S REPRESENTATIVE**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

FAX Number: \_\_\_\_\_

Address: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

**PART II. EVALUATION (To be completed by Point of Contact – Respondent)**

**A. COMPLIANCE OF PRODUCTS, SERVICES, DOCUMENTS, AND RELATED DELIVERABLES TO SPECIFICATION REQUIREMENTS AND STANDARDS OF GOOD WORKMANSHIP**

- ☐ Exceeds Contractual Requirements (Explanation must be provided in Comments field below)
- ☐ Meets Contractual Requirements
- ☐ Failed to Meet Contractual Requirements (Explanation must be provided in Comments fields below)

**Comments:**

---

---

---

---

---

**B. EFFECTIVENESS OF PROJECT MANAGEMENT (to include use and control of subcontractors).**

- ☐ Exceeds Contractual Requirements (Explanation must be provided in Comments field below)
- ☐ Meets Contractual Requirements
- ☐ Failed to Meet Contractual Requirements (Explanation must be provided in Comments fields below)

**Comments:**

---

---

---

---

---

**C. TIMELINESS OF PERFORMANCE FOR SERVICES AND PRODUCT DELIVERABLES, INCLUDING THE ADMINISTRATIVE ASPECTS OF PERFORMANCE.**

- ☐ Exceeds Contractual Requirements (Explanation must be provided in Comments field below)
- ☐ Meets Contractual Requirements
- ☐ Failed to Meet Contractual Requirements (Explanation must be provided in Comments fields below)

Comments:

---

---

---

---

---

---

D. EFFECTIVENESS IN FORECASTING AND CONTROLLING PROJECT COST

- ☐ Exceptional (Explanation must be provided in Comments field below)
- ☐ Satisfactory
- ☐ Unsatisfactory (Explanation must be provided in Comments fields below)

Comments:

---

---

---

---

---

---

E. COMMITMENT TO CUSTOMER SATISFACTION AND BUSINESS-LIKE CONCERN FOR ITS CUSTOMERS' INTEREST

- ☐ Exceptional (Explanation must be provided in Comments field below)
- ☐ Satisfactory
- ☐ Unsatisfactory (Explanation must be provided in Comments fields below)

Comments:

---

---

---

---

---

---

F. OVERALL SATISFACTION
-------------------------

- ☐ Extremely Satisfactory (Explanation must be provided in Comments field below)
- ☐ Satisfactory
- ☐ Unsatisfactory (Explanation must be provided in Comments fields below)

Comments:

---

---

---

---

---

---

G. GENERAL COMMENTS. Provide any other relevant performance information.

---

---

---

---

---

---

---

H. OTHER INFORMATION SOURCES. Provide the following information:

Are you aware of other relevant past efforts by this company? ☐ Yes ☐ No

If yes, please provide the name and telephone number of a point of contact:

---

I. RESPONDENT IDENTIFICATION. Please provide the following information:

Organization: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Address: \_\_\_\_\_

Fax Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

## SECTION E - SOLICITATION PROVISIONS

### E.1 52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address (es):

<http://www.acquisition.gov/far/index.html>

<http://www.va.gov/oal/library/vaar/>

(End of Provision)

### E.2 52.209-7 INFORMATION REGARDING RESPONSIBILITY MATTERS (JUL 2013)

(a) *Definitions.* As used in this provision—

"Administrative proceeding" means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative Proceedings, Civilian Board of Contract Appeals Proceedings, and Armed Services Board of Contract Appeals Proceedings). This includes administrative proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include agency actions such as contract audits, site visits, corrective plans, or inspection of deliverables.

"Federal contracts and grants with total value greater than \$10,000,000" means—

- (1) The total value of all current, active contracts and grants, including all priced options; and
- (2) The total value of all current, active orders including all priced options under indefinite-delivery, indefinite-quantity, 8(a), or requirements contracts (including task and delivery and multiple-award Schedules).

"Principal" means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a division or business segment; and similar positions).

(b) The offeror [ ] has [ ] does not have current active Federal contracts and grants with total value greater than \$10,000,000.

(c) If the offeror checked "has" in paragraph (b) of this provision, the offeror represents, by submission of this offer, that the information it has entered in the Federal Awardee Performance and Integrity Information System (FAPIIS) is current, accurate, and complete as of the date of submission of this offer with regard to the following information:

(1) Whether the offeror, and/or any of its principals, has or has not, within the last five years, in connection with the award to or performance by the offeror of a Federal contract or grant, been the subject of a proceeding, at the Federal or State level that resulted in any of the following dispositions:

(i) In a criminal proceeding, a conviction.

(ii) In a civil proceeding, a finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more.

(iii) In an administrative proceeding, a finding of fault and liability that results in—

(A) The payment of a monetary fine or penalty of \$5,000 or more; or

(B) The payment of a reimbursement, restitution, or damages in excess of \$100,000.

(iv) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the Contractor if the proceeding could have led to any of the outcomes specified in paragraphs (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this provision.

(2) If the offeror has been involved in the last five years in any of the occurrences listed in (c)(1) of this provision, whether the offeror has provided the requested information with regard to each occurrence.

(d) The offeror shall post the information in paragraphs (c)(1)(i) through (c)(1)(iv) of this provision in FAPIIS as required through maintaining an active registration in the System for Award Management database via <https://www.acquisition.gov> (see 52.204-7).

(End of Provision)

### **E.3 VAAR 852.209-70 ORGANIZATIONAL CONFLICTS OF INTEREST (JAN 2008)**

(a) It is in the best interest of the Government to avoid situations which might create an organizational conflict of interest or where the offeror's performance of work under the contract may provide the contractor with an unfair competitive advantage. The term "organizational conflict of interest" means that because of other activities or relationships with other persons, a person is unable to render impartial assistance or advice to the Government, or the person's objectivity in performing the contract work is or might be otherwise impaired, or the person has an unfair competitive advantage.

(b) The offeror shall provide a statement with its offer which describes, in a concise manner, all relevant facts concerning any past, present, or currently planned interest (financial, contractual, organizational, or otherwise) or actual or potential organizational conflicts of interest relating to the services to be provided under this solicitation. The offeror shall also provide statements with its offer containing the same information for any consultants and subcontractors identified in its proposal and which will provide services under the solicitation. The offeror may also provide relevant facts that show how its organizational and/or management system or other actions would avoid or mitigate any actual or potential organizational conflicts of interest.



(c) Based on this information and any other information solicited or obtained by the contracting officer, the contracting officer may determine that an organizational conflict of interest exists which would warrant disqualifying the contractor for award of the contract unless the organizational conflict of interest can be mitigated to the contracting officer's satisfaction by negotiating terms and conditions of the contract to that effect. If the conflict of interest cannot be mitigated and if the contracting officer finds that it is in the best interest of the United States to award the contract, the contracting officer shall request a waiver in accordance with FAR 9.503 and 48 CFR 809.503.

(d) Nondisclosure or misrepresentation of actual or potential organizational conflicts of interest at the time of the offer, or arising as a result of a modification to the contract, may result in the termination of the contract at no expense to the Government.

(End of Provision)

#### **E.4 52.216-1 TYPE OF CONTRACT (APR 1984)**

The Government contemplates award of a Firm-Fixed-Price, Indefinite Quantity contract resulting from this solicitation.

(End of Provision)

#### **E.5 52.212-2 EVALUATION—COMMERCIAL ITEMS (JAN 1999)**

(a) The Government will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other factors considered. The following factors shall be used to evaluate offers:

**TECHNICAL CAPABILITY  
MANAGEMENT APPROACH  
CORPORATE EXPERIENCE  
PAST PERFORMANCE**

Technical Capability, Corporate Experience, Management Approach, and Past Performance, when combined, are **SIGNIFICANTLY MORE IMPORTANT THAN COST OR PRICE.**

(b) *Options.* The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. The Government may determine that an offer is unacceptable if the option prices are significantly unbalanced. Evaluation of options shall not obligate the Government to exercise the option(s).

(c) A written notice of award or acceptance of an offer, mailed or otherwise, furnished to the successful offeror within the time for acceptance specified in the offer, shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

(End of Provision)

## **E.6 52.222-22 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FEB 1999)**

The offeror represents that—

(a) It [ ] has, [ ] has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation; the clause originally contained in Section 310 of Executive Order No. 10925, or the clause contained in Section 201 of Executive Order No. 11114;

(b) It [ ] has, [ ] has not filed all required compliance reports; and

(c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

(End of Provision)

## **E.7 52.252-3 ALTERATIONS IN SOLICITATION (APR 1984)**

Portions of this solicitation are altered as follows:

(End of Provision)

## **E.8 52.233-2 SERVICE OF PROTEST (SEP 2006)**

Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the Government Accountability Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from:

**PASCHAL L. DAWSON  
CONTRACTING OFFICER, BALTIMORE**

Hand-Carried Address:

**Department of Veterans Affairs  
VAMC (512)  
Chief, Contracting (90C)  
10 N Greene St  
Baltimore MD 21201**

Mailing Address:

**Department of Veterans Affairs  
VAMC (512)  
Chief, Contracting (90C)  
10 N Greene St  
Baltimore MD 21201**

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

(End of Provision)

## **E.9 VAAR 852.233-70 PROTEST CONTENT/ALTERNATIVE DISPUTE RESOLUTION (JAN 2008)**

(a) Any protest filed by an interested party shall:

- (1) Include the name, address, fax number, and telephone number of the protester;
- (2) Identify the solicitation and/or contract number;
- (3) Include an original signed by the protester or the protester's representative and at least one copy;
- (4) Set forth a detailed statement of the legal and factual grounds of the protest, including a description of resulting prejudice to the protester, and provide copies of relevant documents;
- (5) Specifically request a ruling of the individual upon whom the protest is served;
- (6) State the form of relief requested; and
- (7) Provide all information establishing the timeliness of the protest.

(b) Failure to comply with the above may result in dismissal of the protest without further consideration.

(c) Bidders/offerors and contracting officers are encouraged to use alternative dispute resolution (ADR) procedures to resolve protests at any stage in the protest process. If ADR is used, the Department of Veterans Affairs will not furnish any documentation in an ADR proceeding beyond what is allowed by the Federal Acquisition Regulation.

(End of Provision)

## **E.10 VAAR 852.233-71 ALTERNATE PROTEST PROCEDURE (JAN 1998)**

As an alternative to filing a protest with the contracting officer, an interested party may file a protest with the Deputy Assistant Secretary for Acquisition and Materiel Management, Acquisition Administration Team, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, or for solicitations issued by the Office of Construction and Facilities Management, the Director, Office of Construction and Facilities Management, 810 Vermont Avenue, NW., Washington, DC 20420. The protest will not be considered if the interested party has a protest on the same or similar issues pending with the contracting officer.

(End of Provision)

## **E.11 VAAR 852.271-70 NONDISCRIMINATION IN SERVICES PROVIDED TO BENEFICIARIES (JAN 2008)**

The contractor agrees to provide all services specified in this contract for any person determined eligible by the Department of Veterans Affairs, regardless of the race, color, religion, sex, or national origin of the person for whom such services are ordered. The contractor further warrants that he/she will not resort to subcontracting as a means of circumventing this provision.

(End of Provision)

## **E.12 VAAR 852.273-70 LATE OFFERS (JAN 2003)**

This provision replaces paragraph (f) of FAR provision 52.212-1. Offers or modifications of offers received after the time set forth in a request for quotations or request for proposals may be considered, at the discretion of the contracting officer, if determined to be in the best interest of the Government. Late bids submitted in response to an invitation for bid (IFB) will not be considered.

(End of Provision)

## **E.13 52.212-3 OFFEROR REPRESENTATIONS AND CERTIFICATIONS—COMMERCIAL ITEMS (NOV 2013)**

An offeror shall complete only paragraph (b) of this provision if the offeror has completed the annual representations and certifications electronically via <http://www.acquisition.gov>. If an offeror has not completed the annual representations and certifications electronically at the System for Award Management (SAM) website, the offeror shall complete only paragraphs (c) through (o) of this provision.

(a) *Definitions.* As used in this provision—

"Economically disadvantaged women-owned small business (EDWOSB) concern" means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States and who are economically disadvantaged in accordance with 13 CFR part 127. It automatically qualifies as a women-owned small business eligible under the WOSB Program.

"Forced or indentured child labor" means all work or service—

(1) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or

(2) Performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

"Inverted domestic corporation", as used in this section, means a foreign incorporated entity which is treated as an inverted domestic corporation under 6 U.S.C. 395(b), i.e., a corporation that used to be incorporated in the United States, or used to be a partnership in the United States, but now is incorporated in a foreign country, or is a subsidiary whose parent corporation is incorporated in a foreign country, that meets the criteria specified in 6 U.S.C. 395(b), applied in accordance with the rules and definitions of 6 U.S.C. 395(c). An inverted domestic corporation as herein defined does not meet the definition of an inverted domestic corporation as defined by the Internal Revenue Code at 26 U.S.C. 7874.

"Manufactured end product" means any end product in Federal Supply Classes (FSC) 1000-9999, except—

- (1) FSC 5510, Lumber and Related Basic Wood Materials;
- (2) Federal Supply Group (FSG) 87, Agricultural Supplies;
- (3) FSG 88, Live Animals;
- (4) FSG 89, Food and Related Consumables;
- (5) FSC 9410, Crude Grades of Plant Materials;
- (6) FSC 9430, Miscellaneous Crude Animal Products, Inedible;
- (7) FSC 9440, Miscellaneous Crude Agricultural and Forestry Products;
- (8) FSC 9610, Ores;
- (9) FSC 9620, Minerals, Natural and Synthetic; and
- (10) FSC 9630, Additive Metal Materials.

"Place of manufacture" means the place where an end product is assembled out of components, or otherwise made or processed from raw materials into the finished product that is to be provided to the Government. If a product is disassembled and reassembled, the place of reassembly is not the place of manufacture.

"Restricted business operations" means business operations in Sudan that include power production activities, mineral extraction activities, oil-related activities, or the production of military equipment, as those terms are defined in the Sudan Accountability and Divestment Act of 2007 (Pub. L. 110-174). Restricted business operations do not include business operations that the person (as that term is defined in Section 2 of the Sudan Accountability and Divestment Act of 2007) conducting the business can demonstrate—

- (1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;
- (2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;
- (3) Consist of providing goods or services to marginalized populations of Sudan;

(4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;

(5) Consist of providing goods or services that are used only to promote health or education; or

(6) Have been voluntarily suspended.

"Sensitive technology"—

(1) Means hardware, software, telecommunications equipment, or any other technology that is to be used specifically—

(i) To restrict the free flow of unbiased information in Iran; or

(ii) To disrupt, monitor, or otherwise restrict speech of the people of Iran; and

(2) Does not include information or informational materials the export of which the President does not have the authority to regulate or prohibit pursuant to section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)).

"Service-disabled veteran-owned small business concern"—

(1) Means a small business concern—

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

"Small business concern" means a concern, including its affiliates that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and size standards in this solicitation.

"Subsidiary" means an entity in which more than 50 percent of the entity is owned—

(1) Directly by a parent corporation; or

(2) Through another subsidiary of a parent corporation.

"Veteran-owned small business concern" means a small business concern—

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

"Women-owned business concern" means a concern which is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of its stock is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

"Women-owned small business concern" means a small business concern—

(1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

"Women-owned small business (WOSB) concern eligible under the WOSB Program" (in accordance with 13 CFR part 127), means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States.

(b)(1) *Annual Representations and Certifications.* Any changes provided by the offeror in paragraph (b)(2) of this provision do not automatically change the representations and certifications posted on the SAM website.

(2) The offeror has completed the annual representations and certifications electronically via the SAM website access through <http://www.acquisition.gov>. After reviewing the SAM database information, the offeror verifies by submission of this offer that the representations and certifications currently posted electronically at FAR 52.212-3, Offeror Representations and Certifications—Commercial Items, have been entered or updated in the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201), except for paragraphs .

(c) Offerors must complete the following representations when the resulting contract will be performed in the United States or its outlying areas. Check all that apply.

(1) *Small business concern.* The offeror represents as part of its offer that it ☐ is, ☐ is not a small business concern.

(2) *Veteran-owned small business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents as part of its offer that it ☐ is, ☐ is not a veteran-owned small business concern.

(3) *Service-disabled veteran-owned small business concern.* [Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (c)(2) of this provision.] The offeror represents as part of its offer that it ☐ is, ☐ is not a service-disabled veteran-owned small business concern.

(4) *Small disadvantaged business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents, for general statistical purposes, that it ☐ is, ☐ is not a small disadvantaged business concern as defined in 13 CFR 124.1002.

(5) *Women-owned small business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents that it [ ] is, [ ] is not a women-owned small business concern.

(6) WOSB concern eligible under the WOSB Program. [Complete only if the offeror represented itself as a women-owned small business concern in paragraph (c)(5) of this provision.] The offeror represents that—

(i) It [ ] is, [ ] is not a WOSB concern eligible under the WOSB Program, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It [ ] is, [ ] is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(6)(i) of this provision is accurate for each WOSB concern eligible under the WOSB Program participating in the joint venture. [The offeror shall enter the name or names of the WOSB concern eligible under the WOSB Program and other small businesses that are participating in the joint venture: \_\_\_\_\_.] Each WOSB concern eligible under the WOSB Program participating in the joint venture shall submit a separate signed copy of the WOSB representation.

(7) Economically disadvantaged women-owned small business (EDWOSB) concern. [Complete only if the offeror represented itself as a WOSB concern eligible under the WOSB Program in (c)(6) of this provision.] The offeror represents that—

(i) It [ ] is, [ ] is not an EDWOSB concern, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It [ ] is, [ ] is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(7)(i) of this provision is accurate for each EDWOSB concern participating in the joint venture. [The offeror shall enter the name or names of the EDWOSB concern and other small businesses that are participating in the joint venture: \_\_\_\_\_.] Each EDWOSB concern participating in the joint venture shall submit a separate signed copy of the EDWOSB representation.

**Note:** Complete paragraphs (c)(8) and (c)(9) only if this solicitation is expected to exceed the simplified acquisition threshold.

(8) *Women-owned business concern (other than small business concern).* [Complete only if the offeror is a women-owned business concern and did not represent itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents that it [ ] is a women-owned business concern.

(9) *Tie bid priority for labor surplus area concerns.* If this is an invitation for bid, small business offerors may identify the labor surplus areas in which costs to be incurred on account of manufacturing or production (by offeror or first-tier subcontractors) amount to more than 50 percent of the contract price:

\_\_\_\_\_



(10) *[Complete only if the solicitation contains the clause at FAR 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns, or FAR 52.219-25, Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting, and the offeror desires a benefit based on its disadvantaged status.]*

(i) *General.* The offeror represents that either—

(A) It [ ] is, [ ] is not certified by the Small Business Administration as a small disadvantaged business concern and identified, on the date of this representation, as a certified small disadvantaged business concern in the SAM Dynamic Small Business Search database maintained by the Small Business Administration, and that no material change in disadvantaged ownership and control has occurred since its certification, and, where the concern is owned by one or more individuals claiming disadvantaged status, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); or

(B) It [ ] has, [ ] has not submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted.

(ii) [ ] *Joint Ventures under the Price Evaluation Adjustment for Small Disadvantaged Business Concerns.* The offeror represents, as part of its offer, that it is a joint venture that complies with the requirements in 13 CFR 124.1002(f) and that the representation in paragraph (c)(10)(i) of this provision is accurate for the small disadvantaged business concern that is participating in the joint venture. *[The offeror shall enter the name of the small disadvantaged business concern that is participating in the joint venture: \_\_\_\_\_.]*

(11) *HUB-Zone small business concern.* *[Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.]* The offeror represents, as part of its offer, that—

(i) It [ ] is, [ ] is not a HUB-Zone small business concern listed, on the date of this representation, on the List of Qualified HUB-Zone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal office, or HUB-Zone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR Part 126; and

(ii) It [ ] is, [ ] is not a joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (c)(11)(i) of this provision is accurate for the HUB-Zone small business concern or concerns that are participating in the joint venture. *[The offeror shall enter the name or names of the HUB-Zone small business concern or concerns that are participating in the joint venture: \_\_\_\_\_.]* Each HUB-Zone small business concern participating in the joint venture shall submit a separate signed copy of the HUB-Zone representation.

(d) Representations required to implement provisions of Executive Order 11246—

(1) *Previous contracts and compliance.* The offeror represents that—

(i) It [ ] has, [ ] has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation; and

(ii) It ☐ has, ☐ has not filed all required compliance reports.

(2) *Affirmative Action Compliance.* The offeror represents that—

(i) It ☐ has developed and has on file, ☐ has not developed and does not have on file, at each establishment, affirmative action programs required by rules and regulations of the Secretary of Labor (41 CFR parts 60-1 and 60-2), or

(ii) It ☐ has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(e) *Certification Regarding Payments to Influence Federal Transactions* (31 U.S.C. 1352). (Applies only if the contract is expected to exceed \$150,000). By submission of its offer, the offeror certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress on his or her behalf in connection with the award of any resultant contract. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

(f) *Buy American Act Certificate.* (Applies only if the clause at Federal Acquisition Regulation (FAR) 52.225-1, Buy American Act—Supplies, is included in this solicitation.)

(1) The offeror certifies that each end product, except those listed in paragraph (f)(2) of this provision, is a domestic end product and that for other than COTS items, the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (2) of the definition of "domestic end product." The terms "commercially available off-the-shelf (COTS) item," "component," "domestic end product," "end product," "foreign end product," and "United States" are defined in the clause of this solicitation entitled "Buy American Act—Supplies."

(2) Foreign End Products:

Line Item No	Country of Origin
_____	_____
_____	_____
_____	_____

[List as necessary]

(3) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25.

(g)(1) *Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate*. (Applies only if the clause at FAR 52.225-3, *Buy American Act—Free Trade Agreements—Israeli Trade Act*, is included in this solicitation.)

(i) The offeror certifies that each end product, except those listed in paragraph (g)(1)(ii) or (g)(1)(iii) of this provision, is a domestic end product and that for other than COTS items, the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The terms "Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end product," "commercially available off-the-shelf (COTS) item," "component," "domestic end product," "end product," "foreign end product," "Free Trade Agreement country," "Free Trade Agreement country end product," "Israeli end product," and "United States" are defined in the clause of this solicitation entitled "Buy American Act—Free Trade Agreements—Israeli Trade Act."

(ii) The offeror certifies that the following supplies are Free Trade Agreement country end products (other than Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end products) or Israeli end products as defined in the clause of this solicitation entitled "Buy American Act—Free Trade Agreements—Israeli Trade Act":

Free Trade Agreement Country End Products (Other than Bahrainian, Moroccan, Omani, Panamanian, or Peruvian End Products) or Israeli End Products:

Line Item No.	Country of Origin
_____	_____
_____	_____
_____	_____

[List as necessary]

(iii) The offeror shall list those supplies that are foreign end products (other than those listed in paragraph (g)(1)(ii) of this provision) as defined in the clause of this solicitation entitled "Buy American Act—Free Trade Agreements—Israeli Trade Act." The offeror shall list as other foreign end products those end products manufactured in the United States that do not qualify as domestic end products, i.e., an end product that is not a COTS item and does not meet the component test in paragraph (2) of the definition of "domestic end product."

Other Foreign End Products:

Line Item No.	Country of Origin
_____	_____
_____	_____
_____	_____

[List as necessary]

(iv) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25.

(2) *Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate, Alternate I.* If Alternate I to the clause at FAR 52.225-3 is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) The offeror certifies that the following supplies are Canadian end products as defined in the clause of this solicitation entitled "Buy American Act—Free Trade Agreements—Israeli Trade Act":

Canadian End Products:

Line Item No.

_____
_____
_____

[List as necessary]

(3) *Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate, Alternate II.* If Alternate II to the clause at FAR 52.225-3 is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) The offeror certifies that the following supplies are Canadian end products or Israeli end products as defined in the clause of this solicitation entitled "Buy American Act—Free Trade Agreements—Israeli Trade Act":

Canadian or Israeli End Products:

Line Item No.	Country of Origin
---------------	-------------------

_____	_____
_____	_____
_____	_____

[List as necessary]

(4) *Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate, Alternate III.* If Alternate III to the clause at FAR 52.225-3 is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) The offeror certifies that the following supplies are Free Trade Agreement country end products (other than Bahrainian, Korean, Moroccan, Omani, Panamanian, or Peruvian end products) or Israeli end products as defined in the clause of this solicitation entitled "Buy American Act—Free Trade Agreements—Israeli Trade Act":

Free Trade Agreement Country End Products (Other than Bahrainian, Korean, Moroccan, Omani, Panamanian, or Peruvian End Products) or Israeli End Products:

Line Item No.	Country of Origin
_____	_____
_____	_____
_____	_____

*[List as necessary]*

(5) *Trade Agreements Certificate*. (Applies only if the clause at FAR 52.225-5, Trade Agreements, is included in this solicitation.)

(i) The offeror certifies that each end product, except those listed in paragraph (g)(5)(ii) of this provision, is a U.S.-made or designated country end product, as defined in the clause of this solicitation entitled "Trade Agreements".

(ii) The offeror shall list as other end products those end products that are not U.S.-made or designated country end products.

Other End Products:

Line Item No.	Country of Origin
_____	_____
_____	_____
_____	_____

*[List as necessary]*

(iii) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25. For line items covered by the WTO GPA, the Government will evaluate offers of U.S.-made or designated country end products without regard to the restrictions of the Buy American Act. The Government will consider for award only offers of U.S.-made or designated country end products unless the Contracting Officer determines that there are no offers for such products or that the offers for such products are insufficient to fulfill the requirements of the solicitation.

(h) *Certification Regarding Responsibility Matters* (Executive Order 12689). (Applies only if the contract value is expected to exceed the simplified acquisition threshold.) The offeror certifies, to the best of its knowledge and belief, that the offeror and/or any of its principals—

(1) ☐ Are, ☐ are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(2) [ ] Have, [ ] have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property;

(3) [ ] Are, [ ] are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses enumerated in paragraph (h)(2) of this clause; and

(4) [ ] Have, [ ] have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,000 for which the liability remains unsatisfied.

(i) Taxes are considered delinquent if both of the following criteria apply:

(A) *The tax liability is finally determined.* The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

(B) *The taxpayer is delinquent in making payment.* A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

(ii) *Examples.*

(A) The taxpayer has received a statutory notice of deficiency, under I.R.C. Sec. 6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(B) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. Sec. 6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(C) The taxpayer has entered into an installment agreement pursuant to I.R.C. Sec. 6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.

(D) The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under 11 U.S.C. 362 (the Bankruptcy Code).

(i) *Certification Regarding Knowledge of Child Labor for Listed End Products (Executive Order 13126).*

(1) *Listed end products.*

Listed End Product	Listed Countries of Origin
--------------------	----------------------------

(2) *Certification.* [If the Contracting Officer has identified end products and countries of origin in paragraph (i)(1) of this provision, then the offeror must certify to either (i)(2)(i) or (i)(2)(ii) by checking the appropriate block.]

☐ (i) The offeror will not supply any end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product.

☐ (ii) The offeror may supply an end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product. The offeror certifies that it has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any such end product furnished under this contract. On the basis of those efforts, the offeror certifies that it is not aware of any such use of child labor.

(j) *Place of manufacture.* (Does not apply unless the solicitation is predominantly for the acquisition of manufactured end products.) For statistical purposes only, the offeror shall indicate whether the place of manufacture of the end products it expects to provide in response to this solicitation is predominantly—

(1) ☐ In the United States (Check this box if the total anticipated price of offered end products manufactured in the United States exceeds the total anticipated price of offered end products manufactured outside the United States); or

(2) ☐ Outside the United States.

(k) *Certificates regarding exemptions from the application of the Service Contract Act.* (Certification by the offeror as to its compliance with respect to the contract also constitutes its certification as to compliance by its subcontractor if it subcontracts out the exempt services.)

☐ (1) Maintenance, calibration, or repair of certain equipment as described in FAR 22.1003-4(c)(1). The offeror ☐ does ☐ does not certify that—

(i) The items of equipment to be serviced under this contract are used regularly for other than Governmental purposes and are sold or traded by the offeror (or subcontractor in the case of an exempt subcontract) in substantial quantities to the general public in the course of normal business operations;

(ii) The services will be furnished at prices which are, or are based on, established catalog or market prices (see FAR 22.1003- 4(c)(2)(ii)) for the maintenance, calibration, or repair of such equipment; and

(iii) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract will be the same as that used for these employees and equivalent employees servicing the same equipment of commercial customers.

☐ (2) Certain services as described in FAR 22.1003- 4(d)(1). The offeror ☐ does ☐ does not certify that—

(i) The services under the contract are offered and sold regularly to non-Governmental customers, and are provided by the offeror (or subcontractor in the case of an exempt subcontract) to the general public in substantial quantities in the course of normal business operations;

(ii) The contract services will be furnished at prices that are, or are based on, established catalog or market prices (see FAR 22.1003-4(d)(2)(iii));

(iii) Each service employee who will perform the services under the contract will spend only a small portion of his or her time (a monthly average of less than 20 percent of the available hours on an annualized basis, or less than 20 percent of available hours during the contract period if the contract period is less than a month) servicing the Government contract; and

(iv) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract is the same as that used for these employees and equivalent employees servicing commercial customers.

(3) If paragraph (k)(1) or (k)(2) of this clause applies—

(i) If the offeror does not certify to the conditions in paragraph (k)(1) or (k)(2) and the Contracting Officer did not attach a Service Contract Act wage determination to the solicitation, the offeror shall notify the Contracting Officer as soon as possible; and

(ii) The Contracting Officer may not make an award to the offeror if the offeror fails to execute the certification in paragraph (k)(1) or (k)(2) of this clause or to contact the Contracting Officer as required in paragraph (k)(3)(i) of this clause.

(1) *Taxpayer Identification Number (TIN)* (26 U.S.C. 6109, 31 U.S.C. 7701). (Not applicable if the offeror is required to provide this information to the SAM database to be eligible for award.)

(1) All offerors must submit the information required in paragraphs (1)(3) through (1)(5) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the Internal Revenue Service (IRS).

(2) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(3) *Taxpayer Identification Number (TIN)*.

☐ TIN: \_\_\_\_\_.

☐ TIN has been applied for.

☐ TIN is not required because:



☐ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

☐ Offeror is an agency or instrumentality of a foreign government;

☐ Offeror is an agency or instrumentality of the Federal Government.

(4) *Type of organization.*

☐ Sole proprietorship;

☐ Partnership;

☐ Corporate entity (not tax-exempt);

☐ Corporate entity (tax-exempt);

☐ Government entity (Federal, State, or local);

☐ Foreign government;

☐ International organization per 26 CFR 1.6049-4;

☐ Other \_\_\_\_\_.

(5) *Common parent.*

☐ Offeror is not owned or controlled by a common parent;

☐ Name and TIN of common parent:

Name \_\_\_\_\_.

TIN \_\_\_\_\_.

(m) *Restricted business operations in Sudan.* By submission of its offer, the offeror certifies that the offeror does not conduct any restricted business operations in Sudan.

(n) *Prohibition on Contracting with Inverted Domestic Corporations*

(1) *Relation to Internal Revenue Code.* An inverted domestic corporation as herein defined does not meet the definition of an inverted domestic corporation as defined by the Internal Revenue Code 25 U.S.C. 7874.

(2) *Representation.* By submission of its offer, the offeror represents that—

(i) It is not an inverted domestic corporation; and

(ii) It is not a subsidiary of an inverted domestic corporation.

(o) *Prohibition on contracting with entities engaging in certain activities or transactions relating to Iran.* (1) The offeror shall email questions concerning sensitive technology to the Department of State at [CISADA106@state.gov](mailto:CISADA106@state.gov).

(2) *Representation and certifications.* Unless a waiver is granted or an exception applies as provided in paragraph (o)(3) of this provision, by submission of its offer, the offeror—

(i) Represents, to the best of its knowledge and belief, that the offeror does not export any sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran;

(ii) Certifies that the offeror, or any person owned or controlled by the offeror, does not engage in any activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act; and

(iii) Certifies that the offeror, and any person owned or controlled by the offeror, does not knowingly engage in any transaction that exceeds \$3,000 with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (see OFAC's Specially Designated Nationals and Blocked Persons List at <http://www.treasury.gov/ofac/downloads/t11sdn.pdf>).

(3) The representation and certification requirements of paragraph (o)(2) of this provision do not apply if—

(i) This solicitation includes a trade agreements certification (*e.g.*, 52.212–3(g) or a comparable agency provision); and

(ii) The offeror has certified that all the offered products to be supplied are designated country end products.

(End of Provision)

## E.14 PROPOSAL PREPARATION

(a) General Instructions.

(i) Quotes are expected to conform to solicitation provisions and be prepared in accordance with this section. To aid in evaluation, the quote shall be clearly and concisely written, neatly presented, indexed (cross-indexed as appropriate), and logically assembled. All pages of each part shall be appropriately numbered and identified with the name of the quoter, the date of the quote, and the solicitation number. Each volume shall be clearly marked by volume number and title.

(ii) Unnecessarily elaborate quotes, brochures, or other presentations beyond those sufficient to present a complete and effective response to the order are not desired and may be construed as an indication of the quoter's lack of cost consciousness. Elaborate artwork, expensive paper and bindings, and expensive visual and other presentations are neither necessary nor wanted.

- (iii) The quote(s) shall be typed with one inch margins on 8 x 1/2" by 11" paper. Do not use a font size smaller than 10 or an unusual font style such as script or condensed print.
- (iv) A Cover letter shall be provided with the offeror's quote(s) that contains:
  - (A) Solicitation number
  - (B) Project title – **"Respiratory Therapy Services"**
  - (C) Name, address, email and telephone and fax numbers of the quoter
  - (D) Names, title email, and telephone number and fax numbers of persons authorized to negotiate on the quoter's behalf with the Government in connection with RFP
  - (E) Name, title, and signature of the person authorized to sign the proposal

(v) ELECTRONIC/HARD COPIES OF PROPOSALS ARE DUE BY THE CLOSING DATE AND TIME. PROPOSALS SHALL BE MAILED/EMAILED TO THE FOLLOWING ADDRESS:

**PASCHAL DAWSON, CONTRACTING OFFICER  
VAMHCS/BALTIMORE  
209 W. FAYETTE STREET SUITE 617  
BALTIMORE, MARYALND 21201**

(OR)

[PASCHAL.DAWSON@VA.GOV](mailto:PASCHAL.DAWSON@VA.GOV)

WALK-INS AND COURIER DELIVERIES ARE PERMITTED.

**(b) VOLUME I--TECHNICAL QUOTE**

(i) General.

(A) Volume I, Technical Quote, consists of the offeror's quote delineating its capabilities and how it intends to perform requirements.

(B) In order that the technical quote may be evaluated strictly on the merit of the material submitted, no contractual price information is to be included in Volume I. However, the type and quantity of labor and materials is to be included in the Technical Quote, without any associated cost information.

(C) The technical quote shall not exceed ten printed (10) pages exclusive of resumes and related corporate experience documentation. Any pages in excess of ten (10) will be disregarded, and will not be included in the quote evaluation. Failure of the quoter to comply with the page limitations, resulting in the excess pages not being evaluated, shall not constitute grounds for a protest. The quoter shall submit one (1) original copy of Volume I and one (1) electronic copy in Adobe or Word 2010.

(ii) Format and Content. Volume I, Technical Quote, shall include the following contents (in the order listed):

- (A) Table of Contents
- (B) List of Tables and Figures
- (C) Exceptions and Deviations. This section shall identify and explain any exceptions or deviations taken to any part of the solicitation or conditional assumptions made with respect to the technical requirements of the solicitation. Quoters should note that taking exceptions to the Government's requirements may indicate an unwillingness or inability to perform the contract, and the quote may be evaluated as such.
- (D) Technical Quote – The technical quote shall be organized into tabs to address each of the factors. These tabbed sections shall be organized as follows:

**(1) Tab 1: Factor 1 – Corporate Experience**

Quoters shall provide up to three (3) examples of projects similar in size, scope, and complexity, current or completed, within the last five (5) years with individual values of \$250K per year or greater. For each project the quoter shall provide:

- (A) Project Title, Contract number, and location
- (B) Type of Contract (i.e. fixed price, cost reimbursable, indefinite-delivery/indefinite quantity, labor hours, etc.)
- (C) Client points of contact with current telephone and facsimile numbers, and electronic mail addresses if available (Confidential clients are not acceptable and will result in non-consideration of the project.)
- (D) Description of work performed – similar scope, size & complexity (brief)
- (E) Describe the relevance of this project to the solicitation
- (F) Identify type of Services provided
- (G) Nature of firm's responsibility (prime or sub)

**(2) Tab 2: Factor 2 - Management Approach**

**(a) Tab 1 – Sub-factor 2.1: Technical Capability**

The quoter shall describe in detail its approach to providing the services required in the Statement of Work. The quoter's Technical Approach shall address how the quoter will ensure its work will be technically and technologically sound, and identify, mitigate, and resolve technical risk; supervise and manage contractor personnel; and ensure the quality of its performance and all required deliverables.

**(b) Tab 2 – Sub-factor 2.2: Recruitment and Retention**

The quoter shall provide detailed information on recruitment strategies (e.g. job pool resources, professional associations and networks, affiliations and relationships, practices involving verification of experience, credentials and knowledge, background checks and screenings, as applicable) and retention strategies (e.g. wage and benefit approaches, training benefits, advancement).

### **(3) Tab 3: Factor 3 – Past Performance**

The quoter shall submit up to a maximum of three (3) most recent projects that preferably exceed \$250K that were completed within the last five years that represent similar Physician support services when compared to the requirements of this acquisition in size, scope, and complexity. The list shall include the contract number/other identifiable number (if applicable), type of contract (e.g. firm-fixed price, time and materials, etc.), period of performance, status (e.g. completed, in process), short project/requirement description, customer name/business, address, point of contact (POC), email for POC, fax for POC, and phone number for POC.

This list shall be provided in Tab 3 with the proposal. These projects can be the same or different than projects listed under Corporate Experience Factor. The quoter should address past performance for each project individually. The Quoter should affirmatively state its lack of past performance if there is none to provide.

### **(c) VOLUME II-- BUSINESS QUOTE**

#### **(i) General.**

(A) Volume II, Business Quote, consists of the actual offer to enter into a contract to perform the desired work. Volume II also includes the price/cost quote which consists of the offeror's quote for RFP Schedule.

(B) The quoter shall submit one (1) original copy of Volume I and one (1) electronic copy in Adobe or Word 2010 compatible software.

#### **(ii) Format and Content. Volume II, Business Quote, shall include the following contents (in the order listed):**

(A) Completed Standard Form 1449 – The quoter shall execute fully and include one (1) original signed copy. The person signing the Quote Form shall have the authority to commit the quoter to all of the provisions of the quote, fully recognizing that the Government has the right, by terms of the Solicitation, to make an award without discussion if it so elects.

(B) Authorized Federal Supply Schedule Labor Rates/Task Rates through GSA that the quoter is submitting as being applicable to the Statement of Work. This attachment should include information pertaining to the applicable GSA Contract Number(s). If not specified in the GSA Contract, the quoter shall provide information discussing the minimum/general experience requirements, functional responsibilities, and minimum educational experience required for the labor categories. Additionally, the government encourages discounts on the GSA Schedule. If discounts are provided, this information shall also be included in this section.

(End of Provision)

## **2. BEST VALUE EVALUATION**

a) Award will be made to the responsive quoter: whose offer conforms to the solicitation requirements; who determined responsible in accordance with FAR Subpart 9.1 by possessing the financial and other capabilities to fulfill the requirements; and whose quote is judged, by an integrated of price/cost and non-price evaluation factors, to provide the best value to the Government in accordance with Evaluation Criteria.

b) The Government intends to award a single award in response to the request for proposal (RFP). The Government reserves the right not to award a contract depending on the quality of the quotes submitted and the availability of funds.

(End of Provision)

## **EVALUATION CRITERIA**

In determining which quote provides the best value to the Government, non-price (technical) evaluation factors are significantly more important than evaluated price. Corporate Experience is the most important factor and is slightly more important than Management Approach. The sub-factors under Management Approach are equally weighted. Management Approach is significantly more important than Past Performance. All evaluation factors, other than price, when combined are significantly more important than price.

Based upon the results of the integrated assessment of the technical and cost/price quotes, the Government may make an award to other than the lowest-priced quoter or the quoter with the highest technical score if the source selection official determines that to do so would result in the best value to the Government.